UNIVERSITY DEBATERS' ANNUAL

1923-1924

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Legal Status of Strikes.
California Criminal Syndicalism Law.
Unemployment Insurance.
Limitation of the Powers of the Supreme Court.
League of Nations.
Bok Peace Plan.
Conservative and Liberal Parties for the United States.
Permanent Court of International Justice.
Recognition of the Present Russian Government.

UNIVERSITY DEBATERS' ANNUAL

Constructive and Rebuttal Speeches Delivered in Debates of American Colleges and Universities during the College Year, 1923-1924

Edited by
EDITH M. PHELPS

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PREFACE

Eight debates, or sets of arguments, representative of the intercollegiate debating activities of 1923-1924, are included in this year's Annual. In conformance to the usual custom, the debates were chosen not only because they presented good material for critical study but also because the subjects covered are likely to continue in interest, and the Annual will therefore provide helpful material for future debates. Briefs and bibliographies accompany each debate.

The debates chosen serve to show the increasing tendency of American debating toward the Oxford system, and toward the elimination of chosen judges. In the Swarthmore-Trinity contest, two debaters were chosen for each side of the question, one from each college. In the California triangular debates (Stanford) an open forum discussion followed the debate. In several cases, decision was rendered by vote of the audience.

Except when otherwise mentioned, the briefs and bibliographies were prepared by the compiler of this Annual. Grateful acknowledgement is hereby made to all who assisted in securing the manuscript reports of the debates or speeches.

EDITH M. PHELPS

July 30, 1924

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CHAPTER I

LEGAL STATUS OF STRIKES

UNIVERSITY OF CHICAGO

RESOLVED: *That the United States should enact a law giving strikes and their concomitant activities the same legality they have under the British Industrial Disputes Act of* 1906.

These were the speeches delivered by representatives of the University of Chicago in the annual intercollegiate debates of the Central Debating League composed of Northwestern University and the Universities of Chicago and Michigan. The debates were held January 19, 1924, and resulted in a triple tie, every affirmative winning on its home platform. The Chicago Affirmative defeated the Northwestern Negative team at Chicago and the Michigan Affirmative defeated the Chicago Negative two-to-one at Ann Arbor. Speeches and bibliography were secured for this volume thru the courtesy of Mr. Royal E. Montgomery, Debate Coach for the University of Chicago and his colleague Mr. Homer Hoyt, coach for the Negative team. The bibliography was prepared with the help of the debaters.

BRIEF

LEGAL STATUS OF STRIKES

AFFIRMATIVE

INTRODUCTION:

A. It is advocated that a law be adopted in the United States embodying the principles of the British Industrial Disputes Act of 1906.

B. The essential provisions of this act that are to be incorporated into our labor law are
   1. All acts in trade disputes are lawful, if lawful for an individual.
   2. All lawful acts are definitely specified.
   3. Unions may not be sued nor their property taken to satisfy judgment.

C. This act puts the workers on an equality with the employer before the law; it is definite.
   1. In the United States, on the other hand, the law rests unequally on employers and workers, it is confused and uncertain, and is becoming increasingly restrictive so far as union activities are concerned.

I. The passage of such a labor law is necessary if true collective bargaining is to be maintained.

A. Collective bargaining is essential to enable the worker to compete on equal terms with his employer.
   1. In the present state of society, there is an inherent basic conflict between the owners of the instruments of production and the workers, over the division of the joint product.
   2. The individual worker, with nothing to sell but his services cannot bargain effectively, except thru

the ability of his group to bring economic pressure upon the employer, such as the employer constantly brings upon the workers.

3. Often the employer is a huge corporation.
   a. Corporations today employ 86.6 per cent of the wage earners.
   b. Combination on both sides is essential.

B. Our present labor law hampers workers in their efforts to make collective agreements.
   1. It is the basis upon which are issued the injunctions against labor.
   2. It places the union in the position of being a legal institution, per se, but unable to do those things that make its existence effective, because of the restrictions placed upon it.
      a. The right to organize was enjoined by the courts as far back as 1895.
      b. Workers have been enjoined from using the strike, the boycott and the picket.
      c. No similar restrictions have been placed on the owner's right to close down his place of business and force his demands upon the workers through the lockout.
   3. Unions, as entities, should be relieved from the pecuniary liability to which they can be held under the Coronado decision.
      a. Exposing the funds of trade unions to attack by hostile employers retards the movement toward organization.
      b. In mistaken devotion to the union, officers and members sometimes do things of which the majority would not approve.
      c. Financial responsibility is not necessary to hold the union to a strict observance of law in a trade dispute.
      d. The effect of trade union responsibility for acts of its members will be to render their proceedings secret and underhanded.

II. The proposed legislation will remedy the inequalities in our present labor law.

A. It will remove the doctrine of conspiracy which at present serves to hamper effective collective bargaining.
   1. Under the proposed law an act by a combination in furtherance of a trade dispute is not indictable as a conspiracy unless such act if done by an individual would be punishable as a crime.
   2. It will give the unions the same powers that are recognized as belonging to industrial corporations.

B. Under this plan, each party to an industrial dispute is given the right peacefully to persuade in its favor.
   1. Specific provisions are so definitely stated as to make it impossible for the courts to place upon the act any nullifying provisions.
   2. Immunity does not extend to acts that are in themselves violent and hence illegal.

C. It gives labor the right to boycott.
   1. Employers already have the same right.

D. It relieves the unions from pecuniary responsibility for the acts of its members.
   1. Individual members who commit acts of violence, however, can be held therefor, both criminally and in tort.

III. The law has been successful in England.

A. In 1906 English trade unions were in the same position in which unions in the United States find themselves today.

B. Since the passage of this act, membership in the English unions has increased from 2,500,000 to 8,000,000 workers.

C. The law has made for collective bargaining.

D. There is no desire for its repeal.

E. It has not increased violence.

IV. There is no satisfactory alternative for this legislation.

A. It will not suffice to place the same restrictions on the employers as are now placed on the unions.
   1. It has been tried repeatedly and has always failed.
      a. Such restrictions only result in endless litigation.

b. The weapons of capital—black listing and arbitrary discharge—are, in their nature, difficult to discover and restrict effectively.

B. Attempts at such legislation have, without exception, been declared unconstitutional.

NEGATIVE

I. There is no need for incorporating into our labor law the provisions of the British Industrial Disputes Act of 1906.

A. Real wages in America are the highest ever enjoyed by any laboring class in the history of the world.

1. They are only half as high in England.

B. Prosperity abounds on every hand.

1. Workers are able to have luxuries that were denied to kings and emperors of old.

II. The British Industrial Disputes Act has not been copied by any other country in the world.

A. It has not been adopted by any other nation in Europe.

B. The British dominions have not followed England's example.

1. Canada and Australia have gone in the opposite direction and adopted compulsory investigation and arbitration of industrial disputes.

C. The fact that it was passed in England was due to special conditions.

1. England is highly industrialized.

a. Less than 10 per cent of its workers are engaged in agriculture.

b. Its trade union membership includes more than 60 per cent of all its workers.

2. Union membership can never reach the proportions in the United States that it has in England.

a. The larger part of our population belongs to the agricultural, professional and business groups.

3. The act could never be passed, or if passed, never be made to work in a country that did not have an independent Labor Party.

III. The British Industrial Disputes Act has not worked well in England.

A. It has doubled the number of strikes.

B. Several times the act has had to be set aside to end strikes that threatened to disorganize all British industry and starve the people.

C. The effect of this legislation would be far worse in the United States.

IV. The incorporation of the provisions of the British Industrial Disputes Act into our labor law would be a serious detriment to the welfare of the United States.

A. It would legalize the compound boycott.

1. To admit the compound boycott as sound would be to give legal support and standing to an engine of harm and oppression utterly at variance with the spirit and theory of our institutions.

2. It would place the weak at the mercy of the strong.

3. It would foster monopoly.

B. It would sanction unlimited immunity for a trade union from the consequences for the acts of its members.

1. This is contrary to the well-known law that the principal is liable for the tort of his agent and the master for the tort of his servant.

C. It would make for the creation of monopolistic unions.

1. The United States has already had sufficient experience with the "Skinney" Madden and Brindell monopolies in the building trades.

2. These monopolistic unions jeopardize the interests of individual liberty and the rights of trade unions as a whole.

D. It would result in strikes against all of the people of the United States.

1. A strike in transportation or the coal fields, by even a comparatively small number of men, can

radically damage the interests of all of the people of the United States.

2. The adoption of the provisions of the British Industrial Disputes Act would confirm this power of the minority forever.

LEGAL STATUS OF STRIKES

UNIVERSITY OF CHICAGO

Affirmative Speeches against Northwestern University

FIRST AFFIRMATIVE

Alick Gustafson, Chicago

It is incumbent upon anyone who advocates the adoption in the United States of a law embodying the principles of the English Industrial Disputes Act to state, first, the differences in the law of labor in the United States and that of Great Britain, and, second, the reasons for advocating such a change.

When we compare the labor law of the two countries, we find some striking differences. In Great Britain, the act of 1906 reduces to a definite and codified form the law of labor. Here, the law rests upon the indefinite and uncodified common law. In Great Britain, what one may do a number may do acting in concert. Here, the courts have held that numbers make a difference. In Great Britain the law provides few restrictions upon what workers may do in carrying out their legitimate activities. Here we find, under the court decisions, restrictions placed not only upon the strike, boycott, and picket, but upon the most fundamental of all labor's rights, the right to organize. In Great Britain, the law rests equally upon employers and workers. Here, it rests unequally. These restrictions and inequalities of our law have led Professor John R. Commons of Wisconsin to say: "We should have a statutory law based upon the English Act of 1906." Just what does the enactment of such a law mean?

Briefly, the law that we are advocating provides: (1) All acts done in trade disputes are lawful if lawful for an individual. Hence an employer need not employ union men; on the other hand, unions may strike, boycott, and picket. (2) It makes specific enumeration of those things that are unlawful, such as physical violence, intimidation, and coercion. (3) It

provides that unions may not be sued or their property taken to satisfy a judgment. This law has given to workers equal rights; it has put them upon an equality with the employer before the law; it is definite. In the United States, on the other hand, we have a law that rests unequally upon employers and workers, that is confused and uncertain, that often depends merely upon the attitude and social philosophy of the court, and that is becoming more and more restrictive so far as the carrying out of the ordinary activities of unions are concerned. These, as we shall prove to you as our case develops, are the essential differences in the law of labor in the United States and that of England.

We believe in a change in the American law of labor which would place workers on an equality with capital before the law, because we believe in collective bargaining. And we are going to insist from the outset that our friends from Northwestern tell us, first, whether they believe in labor organization and hence in collective bargaining; Second, how, if they do, they are going to reconcile such a belief with the defence of a legal system that takes away from one party in an industrial controversy the potential weapons that are necessary to make true collective bargaining possible; And, third, what better remedy than ours have they to propose. We recognize that in the very nature of our industrial society there is a basic conflict between the owner of the instruments of production, on the one hand, and the worker, on the other, over the division of the joint product. The individual worker, who has nothing to sell but his services, cannot bargain effectively except through the ability of his group to bring economic pressure upon the employer, even as the employer constantly brings such pressure upon the workers. Moreover, the employer with whom the worker is bargaining is often a huge corporation, which is really an aggregate of hundreds of individuals. The corporation today employs 86.6 per cent of the wage earners in this country. It is in the light of such vital economic facts that Justice Holmes of the Supreme Court has said: "Combination on both sides is essential . . . it is inevitable unless the fundamental conditions of society are changed."

Our present law of labor, based upon the uncodified and often archaic common law, hampers all workers in their efforts to combine and reach collective agreements. These common law restrictions are the basis upon which are issued those

injunctions which often make the workers think the government is alligned with the employer; they place unions in the anomalous position of being legal institutions *per se,* but of being unable to do those things that make their existence effective. Because we believe in free unrestricted contractual relations between employers and organized workers, we are in favor of removing these restrictions. Allow me to indicate, briefly, just how far the courts have gone in restricting both the right to organize and the use of those necessary weapons—the strike, the boycott, and the picket—with which labor organization must be buttressed.

Every citizen supposedly has the right of association, whether this be membership in a fraternal, political, religious, social, trade union, or other lawful organization. Yet as far back as 1895 we find the right to combine enjoined by the courts. When employees of the Northern Pacific Railway Company went on a strike, the workmen were restrained "from combining, federating, or conspiring together with others for the purpose of inducing or causing any strike." There has been a long succession of such interference from the courts. Even more clearly was the right to organize restrained in the injunction issued by Federal Judge Anderson to the Borderland Coal Company in 1921, when members of the United Mine Workers were restrained from "advising, assisting, encouraging, or acting in any way or manner, to unionization or the attempted unionization of non-union mines in Mingo County, West Virginia." Only a short time before the issuance of this injunction, the Supreme Court of the United States had upheld the injunction issued to the Hitchman Coal and Coke Company, on the ground that the attempt of the workers was interfering with a "yellow dog" contract between the employer and his workers. The workers were restrained from interfering or combining for the purpose of unionizing the plaintiff's mine without the plaintiff's consent. Further, we find that in the Adair *vs.* United States and the Marcus *vs.* People cases the court held that legislation to prevent employers from prohibiting employees to join labor unions on penalty of suspension was unconstitutional.

But our unequal and restrictive common law not only places limitations upon the rights of the workers to organize; it frequently makes the weapons of the strike, boycott, and picket entirely useless. We maintain that these weapons are essential

if workers are to bargain effectively. The employer can close down his place of business and bring economic pressure upon his workers through the lockout. The strike has not this same legality. Time and again the courts issue injunctions on the basis of the old doctrine of conspiracy. In the Platt Shoe Company case they restrained all members of the union "from siding with, or in any way encouraging, or supporting the strike and from paying strike benefits." A strike cannot be undertaken from the avowed motive of injury to an employer's business; yet what business, a property right, is not to a certain extent injured by the strike? To see the extreme application of this doctrine we have only to turn to such representative cases as the Duplex Press Company *vs.* Deering, Traux *vs.* Corrigan, and The American Steel Foundries *vs.* Central Trades Body. In each of these cases the courts upheld injunctions because the strike and weapons with which it was supplemented caused injury to business. Yet the facts show that avowed injury to business was not the motive in any one of these instances,—wages, hours, working conditions, and the right to bargain collectively were the true issues at stake. The courts are more and more frowning upon the strike for the discharge of non-union workers, and the sympathetic strike, while the strike for the closed shop is looked upon adversely in the great majority of cases. Illustrative decisions are Lucke *vs.* Assembly, Barry *vs.* Donaldson, O'Brian *vs.* People, Barnes *vs.* Typographical Union, and McCord *vs.* Thompson-Starrett Company. Yet the employer has the right to refuse to employ union men; he always has the right to the lockout. We are not advocating a restriction upon these powers of the employer; we are merely advocating a removal of restrictions upon both.

The boycott and picket, with which the strike often must be buttressed, have been subject to even greater restrictions. The boycott is merely a combination to suspend dealings with some third party, as the strike is merely a combination to suspend the act of working for him. The employers' ability to cut off the market for the workers' services through the lockout, blacklist, or refusal to employ union men has been given complete legal sanction. Yet a long series of common law precedents has virtually outlawed the boycott, their culmination being found in the recent Supreme Court ruling in the Duplex Printing case, in which the court held that a secondary boycott cannot be

deemed peaceful and lawful persuasion. The picket, another weapon of organized labor which is justified in that it is necessary to make the existence of unions effective and hence collective bargaining between equals possible, has been completely emasculated by the courts. In the recent Granite City decision the Supreme Court held that the only peaceful picketing was that which involves the stationing of a single "missionary" at the point of ingress to the plant in question, and another at the point of egress. In other words it is impossible to picket as the term is known in the labor field.

Moreover, we hold it essential that a change in our law be made so that unions *as entities* be relieved from the pecuniary liability to which they can be held under the recent Coronado decision. We are asking no special privilege for unions; we are merely going to propose a law which would remove liability from both employers' associations and unions—and then *only* in case of an industrial dispute. We of the Affirmative agree with Professor Seager of Columbia University that it is desirable that unions as entities, not individual and guilty members, be relieved from financial responsibility. First, because exposing the funds of trade unions to attack in the interest of hostile employers retards greatly the movement toward organization and makes the prosecution of even the most justifiable strikes extremely difficult. Second, because trade unions are as a rule loosely organized, and a mistaken devotion to the union cause constantly leads individual officers and members to do things in the name of the union which the majority would not approve. Third, because financial responsibility is not the only kind of responsibility by which a union may be held up to a strict observance of the law in its conduct of a trade dispute. And fourth, because the effect of trade union responsibility for authorized acts of its officers and members must be to render their proceedings secret and underhanded. The attempt is inevitably made—as it was in the Coronado case—not only to establish the innocence of the officers, but to show that they acted without authority.

In conclusion, Ladies and Gentlemen, our position is simply this: The present law of labor rests unequally upon employers and workers; it places restrictions upon not only those necessary weapons—the strike, boycott, and picket, but upon the most fundamental of all labors' rights, her right to organize. The

employers' parallel rights, on the other hand, have been held by the courts to be inviolable. These conditions are not compatible with free contractual relations between equals. What we of the Affirmative seek is no special privilege for unions, we merely favor a law that would remove these present restrictions upon organized workers and thus make possible a continuance, extension, and furthering of that real collective bargaining and those true mutual agreements that are necessary as long as employer and worker have divergent interests concerning the division of their joint product—as long as our industrial society remains what it is.

SECOND AFFIRMATIVE

Maurice Kaminsky, Chicago

Completely ignoring the questions we have asked them, our friends from Northwestern come before you and argue that strikes are now sufficiently legal, that it is undesirable to legalize the secondary boycott, and that unions should be sued if they break contracts. But, in saying that strikes are now sufficiently legal, they forget what my colleague has already shown—that while strikes themselves are legal, yet a strike which injures the business of an employer is illegal and may be stopped by the injunction. What strike does not injure the business of a concern?

They say that unions should be held liable for encouraging the breaking of contracts. Yet it is this very principle which has made effective the "yellow-dog" contract. Are our opponents in favor of a system that makes possible the "yellow-dog" contract and destroys unions?

We have already pointed out the social injury which lies in the restrictions which the law now places upon labor—restrictions that make it virtually impossible for unions to carry out their ordinary activities. We called your attention to the desirability that some means be found of placing employers and employees upon an equal footing before the law—some means of making possible collective agreements that can be lasting, permanent influences toward a more equitable distribution of the product of industry, and therefore toward industrial peace. To bring about these desired results we advocate the enactment

by the United States of a law giving to strikes and their concomitant activities the same legality that they are given by the British Trades Disputes Act of 1906. Permit me briefly to explain each of the provisions of the law we are advocating and to indicate how each will act as a remedy for a legal code that is in sore need of a remedy.

Fundamental in the law we are advocating is the removal of the doctrine of conspiracy. The grotesque perversions of the spirit of collective bargaining that are attributable to this conspiracy doctrine can be removed only when we pass a law making what one may do in an industrial dispute, lawful if done by a number acting in concert. Under our law an act done by a combination in furtherance of a trade dispute is not indictable as a conspiracy unless such an act if done by an individual would be punishable as a crime. The provision gives the employer and the union the same rights, because it includes all combinations, whether workers or employers. Under our law, furthermore, an act done by a combination in furtherance of a trade dispute is not actionable, unless such an act if done by an individual would be actionable; in other words, a union may do without being brought into court, what an individual may do without being brought into court. The provision, Ladies and Gentlemen, merely gives unions the same powers that are recognized as belonging to industrial corporations. It makes impossible the continual issuance of the injunction on the theory that a strike is injuring the property right which an employer has in his business. It makes impossible such a hampering of trade union activities as took place in those cases my colleague cited. And moreover, the provisions afford no immunity when there is no trade dispute. It concerns only those basic things for which workers contend in bettering their lot in life: wages, hours, and the conditions of employment. It is only when such disagreements arise, as they inevitably must arise, that our law would result in a removal of the conspiracy doctrine, a legalization of the strike, the picket, and the boycott.

We pointed out, in our first speech, the necessity that the strike and boycott be legalized; we showed how they are essential if labor is to have the potential strength necessary in forcing collective dealings; and we indicated how they are paralleled by weapons of the employer. More than this, we indicated how both rights are now virtually denied labor—the only ef-

fective boycott entirely; and the picket except for a lone missionary at the point of exit and another at the point of entrance to the plant which is striking. Under our plan, each party to an industrial dispute is given the right peacefully to persuade in its favor. The specific provisions that two or more persons may attend at a place where a person resides or works, or carries on business, or happens to be for the purpose of peacefully persuading, and the specific definition of exactly what acts are illegal, make it impossible for the courts to place upon our act any nullifying interpretations. Yet the immunity does not extend, in the British act which we are proposing for the United States, to acts that are in themselves violent and hence illegal. It is illegal: (1) to intimidate or use violence against a person or his children or wife, or injure his property; (2) to follow persistently such a person; (3) to hide the tools, clothes, or other property of the person or hinder him in the use thereof; (4) to watch or beset the place where the person resides or works or carries on business or happens to be; (5) to follow such a person with two or more persons in a disorderly manner.

How unfounded, in view of these provisions, are the fears of our friends from Northwestern that great and incalculable violence will result from an enactment of our law.

Moreover, our law marks a fundamental change in the present legal status of trade union activities, in that it gives labor the boycott. Under our law an act done in furtherance of a trade dispute is not actionable on the ground only that it is an interference with the trade, business, or employment of some person, or with the right of some other person to dispose of his capital or labor as he wills. Again, you will note, a combination of employers has the same right that is given the combination of workers.

The Affirmative already has called your attention to the injustice and social undesirability of allowing unions to be liable as entities for pecuniary damages. We have indicated how the progress of unions is retarded by exposing their funds to the attack of hostile employers; how trade unions, because of their loose organization, are liable to suffer from mistaken acts of individual officers that find no approval among the rank and file; how there are other means than financial responsibility of holding unions to a strict observance of the law; and how the effect of holding unions responsible for acts of officers and mem-

bers necessarily is in the direction of secret and underhanded proceedings. Our laws removes these dangers that lurk in the financial responsibility principle that was established in the recent Coronado decision. But this exemption of trade unions and employers' associations from actions in tort does not mean that the wrongs they commit are allowed to go unpunished. Union members who commit acts of violence can be held therefor, both criminally and in tort. But members who have not been direct participants in the wrong doing cannot be held civilly liable as principals. Is it not more effective, as a curb upon possible union violence, vigorously to prosecute those who commit the violence than to take away the property of entirely innocent union men?

These are the provisions of the law we advocate. In the enumeration of the different provisions I have indicated how the law meets the problem my colleague has presented: the problem of removing the restrictions that render unions unable to do those things that make their existence effective: Our plan will give unions rights with which to make their existence effective; it will make possible a furthering and extension of organization. It is a plan that, by its removal of the doctrine of conspiracy, its exemption of unions as entities from liability, and its specific provisions concerning the strike, picket, and boycott, places both employers and their organized workers upon the same footing. It is a plan which makes lawful for organizations the doing of those things which are lawful for individuals. Essentially it says: "Let both workers and employers bargain collectively; let us apply to them the law of individuals."

The law has worked in England. In 1906 English trade unions were in the same position that unions are in the United States today—hampered by common law and court decisions to such an extent that they could do almost nothing. Today we find in England that the membership has increased from two million five hundred thousand to eight million members. The British Labour Research Bureau, in a personal letter received only a few days ago, tell us: "The act has removed any inequalities before the law of employer and employed, and has made for collective bargaining." There is no desire to repeal the law in England, either on the part of labor or the employer, the letter states. The letter also tells us that after a searching and impartial investigation it was found that only a few obsolete-

minded employers—a very few—have anything to say regarding the repeal of the law. Labor's opponents did not even dare to use the repeal of the law as a campaign plea before the recent parliamentary elections. The law is not going to be repealed. Yet while the law has given workers equal rights with the employer before the law, it has not increased violence. The law has been a success.

We have, then, this problem: In the United States the law rests upon a combination of statute and common law. It is confused and uncertain, it rests unequally upon employers and employees, often cases are decided upon the mere social philosophy of particular jurists, and since the end of the nineteenth century the law has become more and more restrictive upon labor. One economist, Hoxie, has said it is, "archaic, individualistic, based upon property rather than personal rights, inelastic, ultra-conservative, contradictory, and undemocratic." In England, on the other hand, the law is least restrictive, it is definite, and it gives workers and employers equal rights. This is the law we advocate to give unions power to organize, and make their existence effective, so that thru the extension of organization there may be an extension of collective bargaining, the only sound means yet found of securing industrial harmony and industrial peace.

THIRD AFFIRMATIVE

Philip H. Wain, Chicago

At the very outset of this debate we laid down the fundamental fact that under the present law of the United States, labor is restricted in its activities. Labor's power to strike, to boycott, to picket, *even* its right to organize are restricted under the common law. We quoted important court decisions in support of our contentions and not a single one of these court decisions has been challenged by our opponents. And yet they persist in saying that labor's activities in this country are *not* restricted.

We must remember that in the very nature of our industrial society there is a basic conflict between the worker on one side and capital and management on the other concerning the division of the product which they produce in common. As long as there is this conflict of interests, there will be difficulties concerning matters of wages, hours, working conditions.

It is society's concern, and of course that means our concern, that these difficulties be settled in the most equitable manner. But we ask you, How can these difficulties be settled equitably when, as we have shown you, the power of labor to bargain is restricted, while the bargaining power of capital remains intact. Ladies and Gentlemen, there is only one correct answer to that question, and that is—Remove the inequalities which exist in the bargaining power of labor and capital. The problem which then arises is this—What is the *best way* to remove these inequalities? Now if we analyze the situation we find that there are in general two broad ways in which society can approach this problem of removing these inequalities.

One way, is to place restrictions on the rights and powers of capital in the same way that the rights and powers of trade unions are now restricted.

The second way is to remove the restrictions from both labor and capital, keeping, however, the civil and criminal restraints to which individuals are *now* liable for the preservation of life, property, and the public peace.

Let us compare these two alternative plans and see which is the better.

The first method, namely, greater restrictions on both sides, has been tried repeatedly in the United States and has failed, absolutely. The reason for its failure is three fold.

First, such restrictions on both sides are undesirable because they result only in endless litigation—the antithesis of collective bargaining. Each side tries to do all it can and still keep within the law; consequently there is a continuous succession of cases testing what is legal and illegal. Real collective bargaining cannot exist without open contractual relations. Remember, that litigation of any kind which delays a strike or the effective use of any other weapon of labor is to the advantage of capital, regardless of whether or not the final decision with reference to this litigation is in favor of capital or labor.

The second reason for the failure of a plan of greater restrictions such as our opponents advocate lies in the very nature of the weapons which capital uses and which a plan of greater restrictions must necessarily seek to restrict. Blacklisting and arbitrary discharge, the weapons of capital which are most complained of, are in their very nature acts which it is impossible to restrict effectively by any form of legislation or

administration. The reason for this lies in the secrecy which attends the use of these weapons of capital. On the other hand, the weapons of labor, the strike, the boycott, the picket, are necessarily more open in their operations and are, therefore, easily restricted by law. There can be no such thing as equal restrictions on both sides in a practical sense. A law such as our opponents may advocate may make provision for such equality of restriction, but Ladies and Gentlemen, in practical effect, there will be restriction of the activities of labor, but *not* of capital.

But even if we do assume for argument's sake that the plan of greater restrictions which our opponents may advocate, is desirable, and is in fact even possible of practical application, there is still one insurmountable difficulty which faces the plan such as our opponents may endorse, and that is the question of constitutionality. Practically every state in the union has at one time or other attempted the passage of a law which would take away from the employer the power of closing his plant whenever he so desires and everyone of these laws without a single exception has been declared unconstitutional. How then can our opponents hope for the passage of a law such as they advocate, when they must necessarily restrict the "lockout" power of the employer to equalize the restriction of one of labor's weapons? The answer is—There is no hope;—especially in view of the fact that we have already shown you the undesirability and ineffectiveness in practice of such a law.

Since this first method—greater restrictions on both sides—is undesirable, ineffective, and impossible of achievement, we have left then the second alternative to which we called your attention earlier in our argument, and which calls for the removal of restrictions from both labor and capital, keeping, however, the civil and criminal restraints to which individuals are *now* liable for the preservation of life, property, and the public peace.

This is the plan which we of the Affirmative advocate and—which is incorporated in the provisions of the British Industral Disputes Act of 1906 as interpreted to date. Under the plan which we advocate, the weapons of labor—the strike, the boycott, the picket—are made legal and effective so as to put them on an equal basis with the weapons which capital has at its command. Remember that collective agreements are ordinarily not enforceable in courts of law. They can be enforced

only by a labor union strong in the eyes of capital by reason of the fact that it has the weapons necessary to enforce these collective agreements. The gentlemen from Northwestern have declared themselves time and time again this evening emphatically in favor of collective bargaining, and yet, in the same breath they refuse to give to labor unions those powers which will put them on a more equal bargaining basis with capital and thus make for real collective bargaining. Certainly logical!

Ladies and Gentlemen, we are in a period of far-reaching change of attitude on the part of democratic thinkers. In the days when Adam Smith wrote his Wealth of Nations, the industrial revolution was in its infancy. Then, perhaps, individualism was the best standard of social relations. But with the growth of our huge industrialism, of large-scale production, of impersonal relations, and of the corporate form of business organization, we have come to see that the individual rights of the worker mean little unless he can exercise these rights in concert with his fellows. Society has reached a new concept of the proper basis for industrial relations. It is the concept of collective dealing based upon organization. Our plan is one for which there is crying need, because the present law of the United States based upon the eighteenth century philosophy of individualism, works against these necessary combinations. Ours is a plan that specifically meets each of the needs we have indicated. Ours is the best plan. It has worked in Great Britain. It has the endorsement of the leading thinkers on industrial relations—Professor John R. Commons of Wisconsin, Professor Seager of Columbia, Jane Addams of Chicago, the majority of the members of the United States Commission on Industrial Relations. Ours is a plan that makes possible that collective bargaining between equals which is the best means yet found for bringing a fairer distribution of the national income and—more than all—industrial peace.

FIRST AFFIRMATIVE REBUTTAL

Alick Gustafson, Chicago

The question of violence in the conduct of a trades dispute must be settled once and for all. The gentlemen of the opposition have insisted on repainting for you in all of its gruesome detail the recent Herrin disaster and the violence in the coal

field controversies of West Virginia, and have followed these descriptive passages with the statement that "this is what the English act legalizes!" To such a statement we make a most emphatic denial. The British act does *not* legalize violence, and we challenge our friends from Northwestern to point out a single clause, a single phrase, a single word in the law that does. In fact, Section 3 of the law makes it illegal: (1) to intimidate, (2) to use violence, (3) to follow in a persistent manner, (4) to damage any property, or (5) to use any kind of violence.

In answer to a series of questions which we projected earlier in the discussion this evening our guests have rather tardily admitted that they do favor trade unionism and collective bargaining. But we must note this very significant fact: They have admitted the social desirability of trade unionism and collective bargaining, but as yet they have failed utterly to deny our fundamental contention: that trade unions are now being restricted in their activities to the point where true collective bargaining is impossible. We have quoted outstanding court decisions revealing these restrictions and not a single one of them has been challenged, nor even their significance questioned. What kind of belief in trade unionism is this? Surely our opponents are not consistent in their stand. Professor John R. Commons in his book "Labor Laws and Legislation" has said: "Real collective bargaining implies equal bargaining powers on both sides. It results only when each party is aware of the strength, ability, and willingness of the other." We have shown equality does not exist at present. Certainly our opponents, admitting the desirability of collective bargaining, should be ready to give unions those powers that are essential to collective bargaining.

We rejoice that our guests have been so explicit in their discussion of what they call "the undesirable features" of the law that we are advocating, and we are more than willing to accept the challenge thrown out and meet them in direct clash on their own issues. They declare, in brief, that our law legalizes: (1) the breaking of contracts, (2) the secondary boycott, (3) the sympathetic strike, (4) freedom from the conspiracy laws, and (5) freedom of trade unions from pecuniary liability; and they further take the stand that such legalization is highly undesirable.

The first problem that confronts us is—should the courts

undertake the enforcement of collective agreements; There are two things to be kept in mind, Ladies and Gentlemen, in coming to the proper conclusion in this matter, first, the nature of the contract in question, and, second, the inviolable right of the employer to freely break contracts whenever deemed necessary. As to the nature of the contract in question we must remember that they are the so-called "yellow dog" contracts—a contract into which the wage earner enters upon commencing work for his employer in which the employer reserves the right to suspend the worker upon the act of his joining a trade union. The "yellow dog" contract is thus an arbitrary measure forced down the unoffending workers throat with no possible recourse. We hold that such forced contracts are eminently unfair and thoroughly inconsistent with true collective bargaining, which our opponents hold to be an inviolable right of every free workman. If they are eminently unfair we see no logical reason why the ancient law of contracts, based on the fiction of economic equality, should be enforced in this one particular. Further, we mention the fact that the employer can at any time, and legally so, break a contract with his workers. The Coronado decision has been a storm center this evening because of its importance in the pecuniary liability restrictions, but there is another most significant thing to note in this case. The whole controversy arose because of the ruling spirit of the employers, Bache's breach of contract with the unions, closing down all of the mines except one, and running that on a non-union basis. At this point we are not concerned with what resulted, but we are most certainly concerned with the fact that this breach of contract on the employers' part *was never questioned by the courts.* If the employer has the absolute right to the breach of contract through the lockout, black-list, and refusal to employ union help, we can hold it no more than fair to give the worker an equal privilege.

Also we would call your attention to the fact that this legalization of a breach of contract is *only* in case of an industrial dispute. All other contracts under our law are as sacred as ever. In England, where the law has been functioning for nearly twenty years, any other contract is given most thorough legal protection. We are not advocating the breaking of ordinary contracts, but rather a particular contract which is pernicious in itself.

And now as to the secondary boycott. In pointing out its vicious characteristics our guests this evening entirely overlook the fact that boycotting is practised in every department of life. It is not, as they would have you believe, a practise peculiar to the labor field. But inasmuch as that is the attitude from which we must attack the problem on this occasion we would first of all remind you that the employer exercises the power of a similar weapon. A very striking example of a most vicious use of this weapon is to be found in the Colorado mine war records of some years back. Senator Batterson, at the time publishing his paper "The Rocky Mountain News," was approached by business men, advertisers in his columns, and warned to stop publishing articles in favor of the miners' side of the strike situation or consider all future advertising in his columns stopped. If the Senator had not had money enough and sense enough to buy up a controlling interest in one of the large business houses of his town and insert their advertising copy in the columns of the "News" he would have been declared bankrupt in a very short time. As it was he saved himself only by this timely move, and his competitors came along with their advertising copy like a couple of whipped curs. This was certainly a boycott by employers, and its legality is never questioned. The other basis upon which our opponents would logically ban the boycott is because of the inevitable abuses which it would lead to. Note, however that this is but a prophecy. Here are the facts as to the "abuse," so-called, of the boycott: In the three states of the union, New York, California, and Montana, where the secondary boycott is legalized we have reports from the Labor Commissioners stating that there have been no abuses of the boycott in these states. In England where the act of 1906 legalized this boycott we have the following report from J. Keir Hardie, one of the leaders in the Labor Parliament in England: "There have been no abuses of the secondary boycott. . . . If there had been any abuse of the powers conferred by the Act on Trades Unions the matter would have been sure to have been brought to the notice of Parliament, but the fact that even not one question has been put upon the subject affords strong proof that there have been no objections." Such is the last word on boycott abuses. We would wish that our opponents would face this matter as it is.

SECOND AFFIRMATIVE REBUTTAL

Maurice Kaminsky, Chicago

In their first constructive speech our opponents laid down what they called their fundamental premise, that labor now has sufficient rights before the law. But coming after the argument in which my colleague had proved that unions do not even have rights to make effective their very existence, the effort of our opponents was of little avail. Finding themselves unable to attack us in this manner they proceeded to outline objections against our law, many of which my colleague has already answered. And in their third speech, notwithstanding the fact that they previously had declared labor to have sufficient rights, they advocate the incorporation of unions and a Federal law clearly defining the rights of labor and capital, recognizing thereby our contention that the present situation is grossly unjust.

We agree with our opponents that a law should be passed defining the rights of capital and labor, and for this reason we are advocating the adoption of the British Trades Disputes Act. Our opponents do not say what they would include as the rights of labor, but from what they have argued this evening we can guess that they would give to labor all rights except the right to strike, the right to picket, the right to boycott, and the right to break "yellow-dog" contracts. They are in favor of giving rights to labor and yet when we propose a law giving to labor only those rights which are essential if labor unions are to exist, our opponents object.

They propose incorporation of unions. Incorporation of unions means, not collective bargaining, but endless litigation. The charter of incorporation gives to the incorporated body certain powers from which it must not deviate. What would be the result if unions were incorporated? Every time a union attempted to do anything the employer would bring suit on the ground of *ultra vires,* that is, that the union is exceeding its powers. The result would be endless litigation, instead of collective bargaining.

If our opponents object when we propose to remove, in case of an industrial dispute, the conspiracy doctrine, to legalize the strike, the picket, and the boycott, and to release unions from

financial liability for acts of its agents, what rights are they going to give to labor?

Our opponents fear that violence will result from an enactment of our law, and this in spite of the fact that in our main speech we gave the five specific provisions of the law prohibing violence, intimidation, and the destruction of property.

The only objection they have to releasing unions from financial liability for the torts of its agents is that union agents will commit violence. But they forget that John, the union man who commits the wrong-doing, can be held therefore both criminally and in tort. John does not care if the union pays for his wrong-doings, but if he himself is fined or put in jail for the wrong-doing he will hesitate before attempting to commit a similar act. Beside we have have shown that unless you remove this doctrine, union funds are exposed to the attacks of hostile employers. We also pointed out that since a union is such a loose organization it is liable to suffer from mistaken acts of individual members which find no approval with the union. Under the present law every member of a union can have his property taken from him because the union business agent committed a tort. How many union members do you think we will have if this principle is continued?

They point out to you certain abuses of union power. Because there have been the Tweed ring, the Platt machine, and the Thompson-Lundin machine, would anyone here argue for the abolition of Democracy? Because there have been abuses in isolated cases would they damn the whole labor movement! We refrain from condemning capital because in West Virginia, coal miners were killed by the hired thugs of employers, because two union men were killed during the clothing strikes in Chicago, because scores of union men were killed in the Rockefeller oil strikes. We recognize that these are exceptional instances; they are no more condemnatory of the institution of capitalism than the union abuses our opponents have cited are condemnatory of the trade union movement. They are the exceptions to the exceptions.

The undisputed facts are these: that where unions develop they gain a public responsibility, they aid the industry, and they result in greater productivity in the industry. Numerous investigations, among them the United States Commission on Industrial Relations and U. S. Coal Commission found that violence is least where there are the strongest organizations. There is the common knowledge that in Chicago, Hart Schaffner and

Marx, which in 1910 was the first clothing firm to recognize the union, has not had a single strike since then, and that there have been no strikes in those firms which finally in 1919 owing to the recommendations of the government, recognized the union.

Our opponents fear a strike against the public. Let us first quote from John R. Commons who, in urging the adoption of the British law, says: "It is unlawful to commit acts of violence or sabotage, or persistently to follow another. Nor may any one quit work in violation of a contract when he has reasons to know that the consequence of his leaving will be to endanger human life, or to expose valuable property to injury or to deprive a city of gas or water." Let us also remember that no government legislates away its right to self defense. Neither our law nor any law will prevent the government from taking action in an emergency.

Let us also remember that under the American common law unions are not free to strike at all times. The union members possessing only the perishable product of their services can afford to strike only in the most dire necessity of protecting their fundamental rights. The union is thus not as free to strike for the malicious pleasure of striking, as our opponents would have you believe. There is the restraining influence of economic law, there are employers' associations, and there is public opinion. Permit me again to quote from Professor Commons: "A more satisfactory check upon abuse of power by unions is the like power of employers. The protection of the public lies in the equal strength of both parties to make the wage bargain."

So much for the objections of our opponents. In the five minutes left for them our opponents must either attack the desirability of collective bargaining, or show that our plan does not remedy the situation, or raise new objections to our law, or present a better plan and prove that their plan will encourage collective bargaining and give labor rights, even as our plan does. We eagerly await to hear what course of action they will follow.

THIRD AFFIRMATIVE REBUTTAL

Philip H. Wain, Chicago

Let us review the case of the Affirmative in a dispassionate fashion and see just how the gentlemen from Northwestern have met the fundamental issues this evening.

At the very outset of this debate we laid down the fundamental proposition that collective bargaining is desirable. To that proposition our opponents have acquiesced emphatically. So far, so good.

We then laid down the fundamental fact that under the present law of the United States labor is restricted. Labor's power to strike, to boycott, to picket, even, its very right to organize is being restricted in this country. We quoted court decisions in proof of this fact and our opponents have not challenged a single one of them. We showed you how these restrictions upon the activities of labor were placing labor and capital upon an unequal bargaining basis and that true collective bargaining cannot exist except between equals. The gentlemen from Northwestern have agreed to this and yet in the same breath they have refused to give to labor unions those powers which would put them on a more equal bargaining basis with capital. They have posed here this evening as champions of labor. They have favored placing labor and capital on a more equal bargaining basis, but, Ladies and Gentlemen, mere words won't put labor in that position of equality. We need a piece of constructive legislation to remove these inequalities which exist under our present law in the United States. We of the Affirmative have proposed such a piece of legislation and it is here that the main clash has come this evening.

We have advocated that the same legality be given in the United States to strikes and their concomitant activities as is given to them in Great Britain by the Industrial Disputes Act of 1906. Our opponents have raised several objections to our plan but allow me to show you exactly how we have met each and every one of these objections in the course of the debate this evening.

They take issue with us first of all upon the legality which our law gives to the secondary boycott. They claim that the secondary boycott is an unnecessary weapon for labor and furthermore results in violence when used. We have shown you, however, how the employer has a parallel weapon in the blacklist, a weapon which it is impossible to restrict effectively by any form of legislation or administration because of the secrecy which attends its use. This very fact makes it necessary for labor to have a similar weapon in the form of the secondary boycott if it is to be put upon an equal bargaining basis with capital. We have shown you how unfounded are our opponents' fears of violence

resulting from labor's use of the secondary boycott, by quoting to you from the reports of the Secretaries of Labor of two of our states which have legalized the secondary boycott. These reports state emphatically that no violence is evident. And remember also, that if violence does result, our plan makes these lawbreakers subject to fine or imprisonment or both. So much for the secondary boycott.

The gentlemen from Northwestern then raised an objection to the sympathetic strike made legal by our law,—a strike against the people, or the government of the United States, as they term it. Do not allow such revolutionary phrases to cause you to lose sight of some of the practical facts involved in such a contention. Remember that no government ever legislates away its right to restrict the activities of any individual group if these activities encroach upon the rights of the public. The safety of the public is paramount and all else must bow to its needs. This was illustrated in the intervention of the government in the coal strike in the United States when the public welfare was concerned. Under our plan the government will still retain that power to protect the paramount interest of the public. We again see how unfounded are the fears of our opponents.

They then raised the bugaboo that our plan legalizes breaches of contract. Let us make ourselves clear upon this point. We stand absolutely in favor of abolishing all "yellow-dog" contracts which the employer by reason of his stronger position is able to force the workman to accept. This is one of the most glaring inequalities which our present law in the United States fosters—inequalities which our opponents have agreed with us so emphatically this evening must be removed. These "yellow-dog" contracts which the present law of the United States holds inviolate, enable the employer to say to his workmen—"You can work for me only on condition that you promise not to join a labor union." On the other hand if labor strikes for a closed shop—*that is held illegal.* Is that equality? Is that justice? And yet our opponents have posed as champions of equality this evening. Let me also call your attention to the fact that in spite of the fears of our opponents that contract rights will be abolished, in Great Britain where our law is in use, contracts are still held sacred as they are in the United States. So much for that bugaboo.

They have then tried to tell you that the release of both labor and capital from the operation of the conspiracy doctrine would

mean that all combinations of employers in restraint of trade would be made legal. We are indeed sorry that the gentlemen from Northwestern did not avail themselves of the opportunity to study our law more carefully when we laid a copy of it upon their table in the course of the debate this evening. Had they done so, they might have noticed that freedom from the conspiracy doctrine applies only in case of industrial disputes, and has nothing whatsoever to do with such illegal combinations as the old Standard Oil Trust and others.

The final objection has been to the release of the unions by our law from financial liability for tortious acts. They have warned you in eloquent terms of the tremendous violence and anarchy which you are inviting by the adoption of our plan and yet we have shown you that such has not been the result in Great Britain. We went even farther, and gave you four good reasons why trade unions should be released from financial liability for torts. We repeated these reasons twice this evening and our opponents have not challenged a single one of them. We called your attention to the fact that under the plan which we of the Affirmative advocate the individual workman is still liable for the torts which he commits and their only rejoinder to this has been the feeble statement that two checks are better than one. Of course, we can say that as a general rule two checks are better than one—nay, that six or seven checks may be even better, but Ladies and Gentlemen, when, as we have shown you, one of those checks places in the hands of the unscrupulous employer the power to deal a death-blow to labor organization then we call—halt! When the means through which labor has been able to attain its present position is threatened with destruction then we maintain that some steps be taken to prevent it. We have shown you that the release of trade unions from financial liability for tortious acts is necessary if trade unions are to exist and if real collective bargaining is to be maintained.

Negative Speeches in Debate Against the University of Michigan

FIRST NEGATIVE

Carroll L. Chistenson, Chicago

Tonight, after a century of the greatest material prosperity ever enjoyed by any nation in the history of the world, when as

a result of unparalleled productivity real wages of American labor are the highest ever enjoyed by any laboring class in the history of the world, the gentlemen of Michigan have gone to England and brought back from an industrial country where wages are half as high as in the United States a labor law for our adoption. At a time when mechanical science applied to extraordinary agricultural resources has given to the American worker luxuries denied kings and emperors of old, the gentlemen on the Affirmative come to persuade us to exchange our old Aladdin's lamp for a new one, and to place upon our statute books a law devised to meet British experience, thereby repealing the American industrial law.

Before we go one step farther in this debate we ask our friends of the Affirmative to show us a need for such a law. We ask them to be specific and point out the ills which this law proposes to remedy. We see prosperity on every hand. America is today the richest country in the world, the envy of Europe and the goal of every immigrant. What, then, are the terrible conditions which compel us to seek a remedy for ills which the Affirmative imply are affecting us?

But it is not enough that they merely diagnose the case. They must also show us the specific nature of the remedy which they propose to apply, and they must show that it is the one and only remedy which will cure and not kill the patient. We are indeed eager to adopt anything which will benefit the masses of American labor and will be glad to examine this proposal, but we are not going to sign on the dotted line without carefully reading, in both its letter and its implications, the contract which the Affirmative submits for the approval of the American public. Let the provisions of this act be examined clause by clause and let the gentlemen from Michigan point out their meanings.

Here and now, we challenge the Affirmative to show us a single country in all the world that has copied the British Industrial Disputes Act of 1906. If the law contains provisions which will make for industrial harmony, surely other countries would have followed England. Surely the continent of Europe so close to England as to be able to observe its progress would have hastened to adopt a law as beneficial as the Affirmative contends the Disputes Act has been. But no! Not one country, not even Jugo-Slavia or Poland, Switzerland or Bulgaria, to say nothing of France, Germany, or Italy has even considered the adoption of such a law.

Surely we might expect this law to be copied in the British Dominions, where common customs and traditions form a bond with the mother country. But not even here. For Canada has compulsory investigation of labor disputes and Australia compulsory arbitration, both of which are steps in the opposite direction. If not a single country in the world, then, except England, has adopted it, surely such a law must be examined with most careful scrutiny. The burden of proof is indeed upon the Affirmative to justify their measure.

But why was such a law ever adopted in England if its value seems questionable? We must remember that England is highly industrialized, that less than 10 per cent of its workers are engaged in agriculture, and that its trade union membership has amounted to more than 60 per cent of all its workers. On the other hand, trade union membership in the United States has never yet exceeded 13 per cent of our gainfully employed population. Furthermore, as we have, and always expect to have, a large independent farming class amounting to about 30 per cent of our population, to say nothing of independent professional and business groups, union membership in the United States can never reach the proportions that it has in England. Therefore if you consider an organized labor class casting nearly one-half of the votes in England, and holding in 1906 the political balance of power, you can readily see how an act—the most favorable possible to labor was passed. But you can also see that in the United States, where all the workers in the mechanical, mining, and transportation service amount to only 40 per cent of all our workers, such a law could never be adopted in defiance of the interests of the farmers, the professional classes, the traders, retail dealers as well as in defiance of the interests of the millions of the unorganized laborers. As this letter from the office of the British Labor Party declares, the British Industrial Disputes Act could never be passed, or if passed never made to work in a country that did not have an independent Labor Party. The policy of the American Federation of Labor is unalterably opposed to an independent Labor Party in this country. In fact with three-fourths of our states primarily agricultural, the industrialized sections never could dictate American legislation to the extent British labor has dictated British legislation. And if such a law were put through

in this country by the sheer force of the Affirmative arguments, it could never work, because it would fasten upon independent American citizens government by industrial labor.

How has this law worked in England? Again and again England under pressure of serious emergencies brought about by the act has been forced to abrogate its spirit and its letter. This law, passed in 1906 as a political measure at the dictates of organized labor, and regarded by the English courts as dangerous, unwise, and contrary to principles long held sacred, immediately doubled the number of strikes and gave such unlimited sanction to any acts of labor that huge coal strikes, a great triple alliance of miners, railway and dock workers, and even a police strike several times threatened to starve the city of London and disorganize all British industry. The British government was forced to intervene with soldiers in the railway strike of 1912. It was forced to pass special legislation in defiance of the act to stop the police strike. Even England recognizes that this act goes too far. Even the friends of the trade unions, such as Mr. Sidney Webb, have expressed doubts as to whether this act has not proved detrimental to trade unions by causing extremely violent reactions in the opposite direction..

Bad as this act has proved in England, detrimental as this organized dictatorship has been to the real interests of labor, it would be far worse in the United States where the rights of thirty-seven million men and women workers not members of trade unions, the majority of whom can never become trade union members because they work on farms, in offices, or in independent businesses of their own, would be subject to the control of four million men in the trade unions. But we wish to make our position absolutely clear.

We are not hostile to trade unions. We believe in the dignity of labor and any organization which aids in protecting that dignity against capitalistic oppression we regard a force for social justice. We want to give the worker all we possibly can. The most favorable legislation possible would divide our entire $60,000,000 income among forty million workers and give each $1500 by taking away all rent, all interest, all profits. So drastic a step as this, socialism or communism in its most extreme form, would still fail to put the average worker of this country on a level with the members of the strongly organized trade unions,

who in the building trades, the coal mines and on the railroads earn over $2000 a year, or more than 86 per cent of people in the United States actually receive.

So if the British Industrial Disputes Act were a Pollyanna Statute designed to make everybody happy, it could not give highly organized labor much more without depriving a great many others of their just share. But we are not going to accept this British act in the hope that somewhere, somehow, lurking in its clauses is the mystical power to bring about the social millenium. We are going to read its provisions very carefully. We are going to present a bill of particulars against this law. We will raise four specific objections, four fundamental reasons why the British law should not be adopted in the United States.

We must remember that trade unionism as such is not in issue in this debate, that all time spent by the Affirmative in defending collective bargaining, the ordinary strike, the primary or secondary boycott, will be entirely wasted for we concede that all of these should be made legal under statutory laws in the United States. Furthermore, if any court in this country has handed down a decision unduly restricting the normal, peaceful collective action of all unions not monopolistic in character, we favor the removal of those restrictions. But we are unalterably opposed to four specific provisions which the British act proposes to add to American labor law and upon these four points we will stake our entire case this evening.

SECOND NEGATIVE

Ted R. Ray, Chicago

The first speaker on the Negative has pointed out phenomenal growth of the productive capacity of the United States, the growth of unions and their relative favorable position in certain trades. All classes of labor have shared in this tremendous expansion of industrial development—the non-union as well as the union laborer.

Thus we come to the fundamental issues upon which the Negative bases its case. So far, the arguments of the Affirmative have not met the points at issue, because we grant the advisability of ordinary collective bargaining. We concede all arguments along that line, for these general principles are not

at issue. The issue falls upon the following four points which the British Trade Disputes Act would add to the present law. The gentlemen of the opposition must justify these four points:

(1) First, The Compound boycott legalized in section 3 of the act,

(2) Secondly, Unlimited immunity, legalized in section 4,

(3) Thirdly, Monopolistic unions, legalized in section 1,

(4) Fourthly, Strikes against the whole people of the United States also legalized by section 1.

My colleague, the third speaker of the Negative, will discuss the last two points. Now I shall deal with the first two. First as to the compound boycott, legalized under that part of Section 3 of the act, which I shall now read:

> An act done by a person in contemplation or furtherance of a trade dispute shall not be actionable on the ground only . . . that it is an interference with the trade, business, or employment of some other person.

Here, allow me to quote Justice Brandeis, dissenting, in the case of Truax *vs.* Corrigan: "Not until 1906 was the ban on peaceful picketing and the bringing of pressure upon an employer by means of a compound boycott removed."

What is a compound boycott? It appears when workmen use coercive and intimidating measures as distinguished from mere persuasive measures in preventing their parties from dealing with the boycotted firm. It has been further defined by the Court of Appeals of the District of Columbia as "a combination to harm one person by coercing others to harm him." But exactly what is meant by the coercive and intimidating measures which the British Industrial Act proposes to legalize?

In the famous case of Truax *vs.* Corrigan, a trade union delivered an ultimatum to the plaintiff Truax concerning the treatment of cooks and waiters in his restaurant. When Truax refused to yield, the union ordered a strike and on top of the strike, a boycott against all the patrons of the restaurant. Crowds of pickets so dense that customers could hardly force their way through, warned the would-be patrons, saying, "Leave all hope behind, all ye who enter here," and exhorted them not to be traitors to humanity, and shouted in loud voices, false charges that Truax chased his cooks with a butcher knife and that assaults and sluggings were a regular part of the bill of fare. Such threats, reduced the business of Truax from $50,000 to $12,000 a year.

The compound boycott, then, is a gross interference with a just industrial liberty, and it is often extremely cruel in purpose, if not in its achievement. So far as it goes, it makes good-will between the employing class and the laboring class impossible. A passage quoted from the New York Boycotter indicates the spirit of its undertakings. "In boycotting, we believe it to be legitimate to strike a man financially, socially, or politically, wherever the blow will hurt the most." In other words, by the use of the compound boycott, which the British Trade Disputes Act legalizes, a man upon whom there is placed a ban or a taboo may be ostracised from society and deprived of his free pursuit of commerce, because he refuses to yield, in everything, to the absolute dictatorship of the trade union. Can we, Ladies and Gentlemen, support a plan enclosing such measures?

The compound boycott may become one of the most cruel and indefeasible weapons of organized labor. Not long ago a street car strike occurred in one of our industrial cities. Women who had ridden on street cars manned by non-union crews found it impossible to buy groceries and medicines in the section of the city in which they resided. Storekeepers were warned by watchful pickets not to sell to them under the penalty of the boycott. The success of a boycott then depends upon the solidarity of organized labor and upon the ability to spread the knowledge of the boycott far and wide.

The principle of the point under discussion is further illustrated in the circumstances leading to the case of Auburn Draying Co. *vs.* Wardell, where there was an effort to compel plaintiff to unionize its draying business in Auburn, N. Y. The defendants, the teamsters' union, refused to haul anything previously hauled by the plaintiff. The meat-cutters' union, refused to cut meat hauled to the butcher shops by the plaintiff, and the bakers refused to bake flour hauled to the bakeries by the plaintiff. Other trades took the same stand and strikes were threatened on buildings to which the plaintiff hauled material. Thus by threats of trouble to the butcher, the baker, and many persons remote from any connection with the dispute, they who had no quarrel with the plaintiff were compelled to refuse its patronage.

Ladies and Gentlemen, this is what the British Trades Dispute Act proposes to legalize in America Yet our opponents

are advocating the adoption of such a plan. If such a law as the Affirmative proposes were adopted, what would be the practical situation? No manufacturer could reach the market without the unions' consent; the same power which embargoes non-union goods and services would absolutely exclude any manufacturer from the market who did not unionize his business. The combination which controls the keys to the market could not be compelled to give such passports to more than a restricted group of its own selection, and such selection would not be subject to judicial reviews. The union could thus dictate who should supply the market, and whom the consumer should patronize. Power of such public consequences in private hands is certain to be abused. Certainly it is not wise to allow private and irresponsible combinations of craftsmen and laborers to consumate the compulsory organization of all industry. We must remember that the infirmities of human character apply here as elsewhere.

Let us further face the appalling consequences, if the Affirmative's proposed panacea were to become the law of the land. The survival and power of unions would depend on forces and not on social service; industrial liberty would be destroyed, the right to pursue a trade would depend on a license from a private society, more powerful than the state, which would exercise such a tyrannical control over opportunities of employment and the industries and utilities upon which the public is dependent, that orderly government would give way before government by strike.

This is what the British Trades Disputes Act provides. To admit the soundness of the contention of the compound boycott is to give legal support and standing to an engine of harm and oppression utterly at variance with the spirit and theory of our institutions, to place the weak at the mercy of the strong, and to foster monopoly.

Although any one of these four points is sufficient reason that we should not adopt the British Trades Dispute Act in America, yet I shall now turn to my second contention why we oppose such a plan, namely, because it "sanctions unlimited immunity, as provided in Section 4 part of which reads as follows:

An action against a trade union, in respect of any tortious act alleged to have been committed by or on behalf of the trade union, shall not be entertained by any court.

As an authority upon the interpretation of this section I shall quote Mr. Sidney Webb, who says, "The British Trades Disputes Act which remains the main charter of trade unionism, explicitly declares, without any qualification or exception that no civil action shall be entertained against a trade union, in respect of any wrongful act committed by or on behalf of the union; an extraordinary and unlimited immunity, however great may be the damage caused, and however unwarranted the act, which most lawyers, as well as all employers regarded as nothing less than monstrous."

It is a well-known law that the principal is liable for the tort of his agent, and the master for the tort of his servant.

Now note, Ladies and Gentlemen, that the English act would remove all liability from trade unions as an organization, in the following acts; acts of violence to persons or property, slander and libel, all for the sole purpose of destroying the business.

After viewing this very undesirable feature of the act, in the light just indicated I am sure that no one could conscientiously approve of such a proposal, which would legalize the worst evils in our present system.

We advocate that liability should be limited to the general property of the union like a corporation, but union members should not be liable individually.

In closing, I again challenge the gentlemen of the Affirmative to justify these four points, which the act legalizes:

(1) Compound boycott
(2) "Unlimited immunity"
(3) Monopolistic unions, and
(4) Strikes against all the people of the United States.

THIRD NEGATIVE

Richard J. Demeree, Chicago

The gentlemen of the Affirmative have boldly asserted that the act has worked in England. How, then, can they justify the necessity of repeated amendments to meet the evils that resulted from the functioning of the act? Why was an amendment necessary to prevent the policeman's strike from going

to untold limits? How can they account for the Triple Alliance strike which brought the government to the union's knees.

The gentlemen have said that the United States needs to revise its existing laws in order to make them more effective. We concede anything in the British act which will secure this end but we are not willing to go beyond such a revision and include the four objectionable features which we have enumerated.

Trade unionism is not an issue of this debate. We have conceded the virtues of collective bargaining, the peaceful picket, and the ordinary strike. Those excesses of unionism which stereotype existing evils form the basis of our objection to the British act and we ask the Affirmative to meet the real issues of this debate. Namely: the compound boycott, unlimited immunity of trade unions, the monopolistic features of certain trade unions, and finally, the strike against the whole people of the United States by certain trade unions. My colleague has shown the evils of the compound boycott, and the unlimited immunity of trade unions. It remains for me to consider the evils of monopolistic unions, and the strike against the whole people of the United States by certain trade unions.

As symptoms of a fundamental case against the monopolistic unions,—not trade unions in general,—let me point to the power in the building trades, where the world was scandalized by the practices of two labor czars namely "Skinny" Madden in Chicago, and Brindell in New York. As a result of having successfully closed the unions to outsiders, of having made agreements with contractors, and out of the fact that building is a commodity limited to place and cannot be transported, these men from their strategic positions held out their itching palms for notorious graft.

With the local contractors on the one side, and the organized building trades unions on the other, they established a double-sided monopoly which was entirely effective because the commodity, buildings, such as your Michigan union or this great Hill Auditorium, cannot be erected in Ann Arbor and mailed to Chicago or New York. With the consuming public, and all other labor, in between this double-sided monopoly, it was possible by merely turning the handle of this ingenious device to squeeze the public, the laboring masses, until they paid the bill in the form of higher rent, over-crowded apartments, and other outrageous and exorbitant costs and inconveniences.

It would be fair enough to ask other workers to pay high building wages if building labor were really hard to obtain. The building trades, however, have only created an artificial labor supply by limiting their apprenticeships and closing their unions. You and I and forty million other workers cannot enter the Edens of Labordom where fifteen or twenty dollars a day are paid during the present building boom to labor graduates who hold the vested right of laying bricks, of tapping pipes, and of driving nails into boards.

These strong monopolistic unions jeopardize the interests of individual liberty and the rights of trade unions as a whole. Men cannot paint their own houses, there have been cases where union men from St. Louis cannot work in Chicago, men cannot hire their own fathers if their fathers are non-union men; they must tear out all non-union work before a union hand will touch it. Bomb explosions, labor slugging, and threats of terrorism have sometimes been brought within the control of law Were we to expand this autocratic and arbitrary power of the monopolistic unions, at the expense of all other unions and the public, as the British law would do, the inevitable result would be a return to these injurious activities and evil practices. A new dress and a new name does not conceal the inescapable logic of what the British act confirms, sanctions, and legalizes.

Such abuses are inherent in the nature of monopolistic unions. Such a concentration of power can never foster the abiding principles and a real concern for the rights and welfare of outsiders. These varieties of hold-up unions strike for the benefit of dishonest labor leaders, and for themselves, but never for labor as a class or because of a public interest. By the British Industrial Disputes Act, the Affirmative would increase and expand this power at the finger tips of labor czars, until they controlled all local affairs as they have controlled them in Chicago, San Francisco, New York and other commercial centers.

Scandalous, selfish, and capricious as all these conditions are, yet by the nature of the building trades, they are only local in their scope. One such local monstrosity may terrorize and devastate a given community but it cannot project itself beyond that community. If the building trades in Ann Arbor have not grown large enough to have developed such devouring appetites, as they attempt to satisfy in Chicago, perhaps our op-

ponents will be more deeply affected by the last point of the Negative argument which effects each and every one of them. I refer to the strike against the whole people of the United States.

There are forty-one million six hundred thousand workers in the United States. Of this number about four million, or one-tenth, are in trade unions today. In trade union labor, one million three hundred thousand are employed in transportation, and four hundred thousand work in coal mining. A strike of these two latter groups, transportation and coal mining, may tie up the whole people of the United States. One million six hundred thousand, one one-hundredth of our total population, at the strategic points in the Gibralters and Singapores of industry may bring every factory wheel to a stop and may throw forty million men out of employment. The facts of our industrial situation force upon us the knowledge that a few men may paralyze the organic whole of our nation with either their right hand upon transportation or their left hand upon the coal mines. How entirely paralyzing it would be if they struck a blow against the whole people of the United States with both hands, when one hand lands a blow with such terrific force! Let us pray that their left hand may never know what their right hand is doing.

Yet it is this power which the gentlemen of the Affirmative propose to confirm forever. They propose to permit a fearful policeman's strike which once almost led to a reign of terror in England; they propose that we sanction monopolistic union power sufficient to bring the government to the union's knees as occurred during the Triple Alliance Strike when the coal, transportation, and sea-men and dock workers paralyzed the English nation; they propose that we adopt a law passed at a heated reactionary moment when the country was in arms against the Taff-Vale decision; and they propose that we adopt a law which has since proved a judicial eyesore in the courts of England.

To apply the law to a particular case: What it is legal for one railroad employee to do it is legal for all of them to do acting in concert. We know that it is not human nature for every man individually and without organization to decide to quit work at one time. Thus we come to the situation in which individual rights become public wrongs through organization. A

harmless and peaceful right to quit work is different than the terrible menace which our nation would confront by the concerted action of these men to quit work. It is a predominant public right to seek protection against the challenges of a single part of a single class. All private rights should cease at the point where they become public wrongs. The time has come for monopolistic unions to talk less about their private rights,—which we grant,—and more about their duties to their fellow works,—which we emphasize.

Now bear in mind, Honorable Judges, we are not at all opposed to trade unions. Only monopolistic union power are we opposed to but we grant full power to organize short of the point where the public interest is threatened. We are attacking monopoly, destructive to liberty.

In 1890 the Sherman Anti-Trust Act laid down the principle that gigantic size alone was dangerous in a republic because it gave the possibility of autocratic power which might overturn our nation. A house cat is harmless, but a house cat as big as a tiger might be dangerous to have around. We ask that the same doctrine be applied to trade unions, that while welcoming and advocating every device that will lift the laboring masses to a higher standard of living, we are opposed to those principles of the British Industrial Disputes Act that legalize and perpetuate the monopoly power now exercised by a small minority of the labor czars.

By a summary of labor disputes cases the second Negative speaker has pointed out many of the undesirable results in the line of the compound boycott and the unlimited immunity.

You have just seen the intensive influence of the monopolistic unions in the hands of the labor czars. You have seen the paralyzing effect of policemen's strikes or of nation wide transportation or coal mining tie ups. A strike against the whole people of the United States, we have called it.

The first Negative speaker has shown you that the present situation is the best that it has been in the history of the world due to the vast amount of production. We concede the fact that improvement can still be made.

We accept the arguments for the British Industrial Disputes Act with four exceptions which we feel were included through hasty and ill-considered steps at a reactionary time in British law. Having conceded practically everything to the Af-

firmative, we maintain that in order to establish their case they must meet our objections without exception.

FIRST NEGATIVE REBUTTAL

Carroll L. Christenson, Chicago

At the outset of this debate we raised two problems which the Affirmative must meet and solve. First we asked them to point out the specific ills which warrant the passage of such a law as they advocate. Second we asked them to show definitely the way in which such a law would benefit the conditions. The reply which we have received to these two propositions has been general and scattered. By gleaning the Affirmative case, however, we conclude that their position may be fairly stated thus: first that organized labor's status under the Clayton law was the same as the status of British labor under the Disputes Act until certain recent decisions immasculated sections 6 and 20 of the Clayton Act. They claim, therefore, that the passage of a law similar to the Disputes Act would mean only the re-creation of a Clayton law which the courts could not misinterpret.

Meeting them squarely on this issue we deny that the Clayton law ever gave to unions powers similar to those which the Disputes Act would legalize. The Clayton law was never meant to legalize a labor monopoly, the compound boycott, nor unlimited immunity. The British act is unmistakably clear in its justification of these measures. As to the meaning of the Clayton law let me quote Mr. Justice Pitney. He says: "The Section [Section 6 of the Clayton law] assumes the normal objects of a labor organization to be legitimate, and declares that nothing in the anti-trust laws shall be construed to forbid the existence and operation of such organizations or to forbid their members from lawfully carrying out their legitimate objects; and that such an organization shall not be held in itself merely because of its existence and operation to be an illegal combination or a conspiracy in restraint of trade. But there is nothing in the section to exempt such an organization or its members from accountability where it or they depart from its normal and legitimate objects and engage in an actual combination or conspiracy in restraint of trade." The Clayton law

then has never been identical, even in its spirit, with the British act.

In answering our challenge to show us a single nation that has copied the British Trades Disputes Act of 1906 the Affirmative reply has been, "We do not know of a nation that has copied the act but we assume that the status of unionism in other nations is the same as in Great Britain so that no such law is needed." They happen to be wrong, however, for in not a single other nation can unionism boast of a similar recognition to British unionism. We mention France for example where unionism has corporate recognition, the direct opposite of the British condition.

Early in the discussion we raised four specific objections to the passage of the British Trades Disputes Act in the United States.

Upon these objections the Affirmative must take a positive stand because we have shown you that they are definitely included in the act no matter how absurdly unjust they may seem. Since we have conceded everything else the debate hinges upon these four issues. Honorable Judges from now on we shall spend no time answering any irrelevant arguments but shall confine ourselves exclusively to the points at issue.

Now what have the Affirmative had to say thus far regarding these four issues. On the first point they have said nothing whatever. Our second point they have hopelessly misunderstood for they have assumed our objection to unlimited immunity which their law would legalize, to be a support of unlimited liability which they claim some United States courts have held for trade unions. We do not support unlimited liability but do favor limited liability as opposed to the British policy.

On our last two points as well as the first, they have had nothing whatever to say. It is imperative that they meet us on this ground. My colleagues will continue the debate on these four issues.

SECOND NEGATIVE REBUTTAL

Ted R. Ray, Chicago

There seems to be some confusion in the ranks of the Affirmative with regard to the wording and interpretation of the British Industrial Disputes Act. They have asked us to show what

the English courts have said in interpreting this act. These courts, in rendering their decisions, have said, in the words of Lord MacNaughten, "If the words of the statute are in themselves precise and unambiguous, then no more can be necessary than to expound those words by natural and ordinary sense. The words themselves, alone, do, in such case, best declare the intention of the law giver." Quoting Lord Esher, "If the words of the act are clear you must follow them, even though they lead to a manifest absurdity." Lord Atkinson said, "I think the language is plain." Lord Moulton said, "These words are free from any ambiguity." This is sufficient evidence on how the law has been interpreted in England.

The gentlemen of the Affirmative say that they are advocating a law that will place the trade union and the employer on an "equality." We favor giving both a right to organize, but we would curb monopoly powers of both, as Henry R. Seager, whom they have already quoted, says, (22 Political Science Quarterly, 1907, page 400) "Both forms of combination [capital and labor] should be given free play up to the point where they begin to conflict with the general interest. Beyond that point both should be so regulated and controlled that their evil tendencies which have a common origin in many points of resemblance may be effectively held in check."

The first speaker of the Affirmative spent most all his time supporting and defending the peaceful ticket, the ordinary strike, the primary boycott—the desirability of which we conceded in our constructive speeches. Therefore all this time was completely wasted.

The second speaker of the Affirmative stated that they were not arguing for an adoption of the British Industrial Disputes Act of 1906, but for a similar measure. But their "similar law"—whatever that may mean—must necessarily involve the four objectionable features we pointed out.

The third speaker of the Affirmative asserted that collective bargaining is essential. We concede collective bargaining in general, but we do not concede collective bargaining so powerful as to give monopoly power; short of that we concede all. This is not in issue; consequently all argument along this line is time wasted.

Now, how does the debate stand? We have advanced four objections. How have the gentlemen of the Affirmative met them? Our first point was the undesirability of legalizing the

compound boycott. So far they have justified only the primary or peaceful secondary boycott, which again let me repeat, we have conceded. We favor peaceful persuasion, although nation-wide in its scope. But where it ceases to be peaceful and force begins—there we stop. We are opposed to the compound boycott or boycott on a boycott. If unions have justice on their side, mere statement of their case will induce the public to boycott the employer. Coercion is necessary only when the union cause is not just. They have had nothing further to say about this point, so *it* stands proved.

Our second point was the undesirability of granting to unions unlimited immunity. We advocate the principle of "limited liability" with regard to which I shall quote Judge Louis D. Brandies in Atlantic Monthly, January, 1924: "I can conceive of no expenditure of money by a union, which could bring so large a return as the payment of compensation for some wrong committed by it. Any such payment would go far in curbing the officers and members from future transgression of the law, and it would above all establish the position of the union as a responsible agent in the community, ready to abide by the law." The Affirmative say liability of individual is sufficient, but we contend that two checks are better than one. If the trade union is also liable, there will be an added check. And remember, this union liability is the main check, for who can catch or collect a judgment from the thousands of propertyless members of trade unions, who can commit torts under cover of darkness, and establish alibis by standing together in courts? Why should trade unions be liable? Because they reap the benefits of the conduct of their members. Trade unions under the British law can sit in their office and direct a campaign of assault and battery, slander and libel, destruction of property and intimidation that will ruin the employers' business, and laugh at all attempts to stop it.

Our third point, monopolistic unions, has not been met. It stands proved and unchallenged.

As to our last point: Strikes against the whole people of the United States: The gentlemen of the opposition cannot themselves justify this. They cannot justify the police strike. They say it is not in the law. If it were not in the law of 1906, why was special legislation in England necessary to prevent the police strikes? The law of 1906 did sanction the

strike. They cannot include later laws as part of the law of 1906. They say there never was a strike—against the entire people of the United States—but the United States never legalized such a strike. England did, and there occurred the terrible coal strike of 1912, also, in England a general strike would be against workers themselves, but in the United States there are 60 per cent of American people who are farmers, merchants, and professional workers, while nearly 80 per cent are out of unions. Therefore, in America, a strike against the whole people by transport unions is government by a very small minority of the people.

Once more we ask the gentlemen of the Affirmative particularly to meet the issues we have laid down. We want to meet their arguments fairly.

Now again we put the four issues of this debate squarely before the Affirmative. It is now a question of adopting our plan of legalizing the ordinary strike, the peaceful picket, the primary boycott, the peaceful secondary boycott; or of adopting the British plan of the Affirmative.

THIRD NEGATIVE REBUTTAL

Richard J. Demeree, Chicago

In opening the last rebuttal, the Chicago team wishes to express its sincerest thanks for the wonderful hospitality shown to us since we arrived in Ann Arbor. It is indeed hard to disagree with a host after such a reception. But our convictions on this question are strong.

Let us put the arguments of the two teams side by side. Our opponents have said that the act worked well in England. If this is so, Ladies and Gentlemen, how can the Emergency Acts, the policeman's strike, the necessary amendments to the act and the intensive labor troubles be justified? They have argued that the amendments are part of the act being debated, but if you will look at your programs, Ladies and Gentlemen, you will see that we are arguing *The act of 1906* and not the act as amended to date.

The last Affirmative speaker has spent much time showing the evils of unlimited liability. Over and over again, we have told them that we too opposed unlimited liability. We favor

a limited liability of the trade unions for the torts of their members. The Affirmative has had not a word to reply. But they favor an unlimited immunity of trade unions, a principle which the English courts regard as nothing less than monstrous, and which even such friends of the trade unions as Mr. Justice Brandeis condemn.

They have said that under the present situation our laws are about the same as in England but that they needed to be recodified. If there is anything in the British act which will reaffirm the present law then we favor that much of the act, but we are willing to advocate the act with the four defects which we have mentioned. These four defects are an integral part of the British Industrial Disputes Act of 1906 which the gentlemen of the Affirmative are obliged to defend this evening.

Thus we have met the case of the Affirmative on every issue they have raised. They have spent much time defending the trade unions, the ordinary strike, the peaceful picket, the primary and peaceful secondary boycott,—things that are conceded by the Affirmative. We have met the three irrelevant issues which they insisted upon discussing before an audience that came to hear the British Industrial Disputes Act debated. We showed how remarkably the law has failed in England—and even had it been a wonderful success in England it could not have succeeded in the United States because conditions are fundamentally different. We showed them that they were hopelessly confused in regard to unlimited liability of unions, and third, to their contention that our labor laws must be reaffirmed, we showed that we were in hearty accord with this but that the British act would affirm for the first time four objectionable features which never have and never should be a part of our American law.

Thus we have met their case. Now, let us consider how they have met our case.

One of our issues, unlimited immunity, they have confused with unlimited liability, and the other three of our main issues, namely, the compound boycott, the monopolistic unions, and the strike against the whole people of the United States they have not met. Upon any one of these issues we could establish our case and the Affirmative must justify every single one before they can justify the British Industrial Disputes Act of 1906. Yet the Affirmative have by their eloquent silence con-

ceded all four issues that are so fatal to their case. The only recourse left the gentlemen, the last straw which they can grasp is to deny that these four objections are in the act that we are debating this evening and to make the plain words of the statute disappear before your eyes by the magic of their eloquence.

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CHAPTER II

THE CALIFORNIA CRIMINAL SYNDICALISM LAW

STANFORD UNIVERSITY

RESOLVED: *That the California Criminal Syndicalism law should be repealed.*

These were the speeches delivered by representatives of Stanford University, in the triangular debate between Stanford University and the Universities of California and Southern California. The Stanford Affirmative team debated California at Stanford, on January 24. By vote of the audience the decision was in the ratio of 8½ to 1 for Stanford. The Stanford Negative team debated the University of Southern California at Los Angeles, on January 29. Stanford lost by vote of the audience in the ratio of 2½ to 1. An open forum discussion followed the debate and was participated in by speakers from the floor. These speeches were secured thru the courtesy of Professor J. G. Emerson, Debating Advisor for the Stanford University teams.

BRIEF

THE CALIFORNIA CRIMINAL SYNDICALISM LAW

AFFIRMATIVE

INTRODUCTION:

A. In brief the Criminal Syndicalism law states
   1. Anyone who advocates the use of force as a means of accomplishing a political or economic change shall, upon conviction, be liable to fourteen years imprisonment.

B. This law is a startling departure from our commonly accepted standards of justice.
   1. It holds a man guilty for advocating, as well as for actually committing, deeds of violence.
   2. Any member of an organization that advocates violence is considered guilty as if he himself had advocated it.
   3. It is discriminatory, in that it is limited to advocacy of violence to bring about political or economic changes alone.

I. This law is an unjustifiable departure from American principles of law and justice.

A. It is a blow at freedom of speech and the press.
   1. Freedom of speech is a right that has always been considered indispensable to our development as a democratic nation.
   2. Great Americans have always exercised this traditional right of advocating forcible means to bring about changes in our form of government.
   3. The American people have always resented any attempts to abridge or restrict the expression of public opinion.

a. The Alien and Sedition Laws of 1798 proved so irksome to the American people that at the following elections they overthrew the law-makers who had passed them.
b. During the Civil War it was not considered necessary to pass any laws abridging the freedom of speech.

B. Conditions in California do not necessitate the existence of so drastic a measure for the preservation of the state.
1. It has always been the American policy never to pass such laws except when it is necessary to save the country.
2. Whether or not this legislation was necessary during the war, there is no excuse for continuing it on our statute-books now.
3. California is practically the only state in the union now actively prosecuting under a criminal syndicalism law.
a. In other states, similar laws have either been repealed, declared unconstitutional, or allowed to become dead letters.

C. It is not the advisable way to combat radicalism.
1. History shows that the best way to dissipate the dangers of radicalism is to let the radicals talk as much as they please.
a. This is the practice in England where there is little difficulty with radicalism.

II. The Criminal Syndicalism law is the wrong method of curbing radicalism.

A. It has created an artificial radical problem all its own.
1. The rising of the Irish Free State, the presence of Bolshevism in Russia, the very existence of the United States of America are historical testimonials to the truth of this statement.
2. There has been an increasing influx of I. W. W.'s into California because of this very law.
3. Radical organizations have been flooding the state with literature of the kind this law was meant to suppress.

4. The most successful strike ever staged by the I. W. W. was in Los Angeles when the law was most vigorously applied.

B. The abuses inherent in this law constitute a greater evil than any against which the law may have been directed.
   1. In order to secure convictions, professional witnesses are employed.
      a. They have been found wherever there have been trials under the Syndicalism law.
   2. It may lead to wrong arrests.
      a. The police officer finds an unusual demand made upon his discretion.
   3. It tends to foster the policies and interests of a particular group or class of society.

C. The law is futile in that it is directed at effects and totally ignores causes.
   1. It ignores the conditions that create radicals.
      a. The I. W. W.'s are recruited from the ranks of migratory labor, the least capable, least trained and poorest paid of American workmen.
      b. Good wages and better working conditions will remove much of the dissatisfaction that is responsible for radicalism.

NEGATIVE

I. The passage of the California Criminal Syndicalism law was necessary.
   A. Beginning with 1913 there was a steady influx of I. W. W.'s and radicals into southern California.
      1. Uprisings and crimes resulted which imperilled entire communities.
   B. Existing statutes were found inadequate to control the situation.
      1. This law was passed as a result.

II. The Criminal Syndicalism law does not suppress opinion—it punishes crime.
   A. It does not add anything to California law.

1. It merely enables the state to reach and punish political crime sooner than before.

B. It is not discriminatory.
   1. It applies to crimes necessary to effect political or economic changes in the law only because there has been organized effort to bring about political and industrial changes by criminal acts.

C. It makes it possible to reach and punish the advocator of a crime intended to overthrow the government before the crime is committed and the damage done.

D. It strengthens the California law in respect to the punishment of conspiracies.
   1. Heretofore, the legislature had felt it unnecessary to punish conspiracies until some member thereof committed or tried to commit the crime.

III. The law has operated advantageously in California.

A. In the harbor strike at Los Angeles, violence was stopped as the result of prosecutions under this law.

B. Sabotage has practically ceased in Sacramento County, since the passage of this act.

C. Prosecutions under this act have repeatedly broken the waves of Criminal syndicalism in Alameda County.

D. It has removed a number of very dangerous people from the community.

THE CALIFORNIA CRIMINAL SYNDICALISM LAW

STANFORD UNIVERSITY

AFFIRMATIVE SPEECHES IN DEBATE AGAINST THE UNIVERSITY OF CALIFORNIA

FIRST AFFIRMATIVE

Thomas A. Bailey, Stanford

MR. CHAIRMAN, LADIES AND GENTLEMEN: It becomes my duty as first speaker for the Affirmative to endeavor to establish an undertaking of the nature of the question before proceeding with my constructive argument. In brief the Criminal Syndicalism law states: Anyone who *advocates* the use of force as a means of accomplishing a political or economic change shall, upon conviction, be liable to fourteen years imprisonment. Let me repeat: "Anyone who *advocates* the use of force. . . ." *Actual deeds* of force and violence have always been criminal. But never before in this state have we imprisoned men for advocating ideas, even though erroneous or illegal, when those ideas never developed into actual deeds of violence. Before the passing of this law a man could *talk* crime all he wanted. *Talk* is the cheapest thing in the world. But the moment anyone actually committed a crime as a result of this talk, he was clamped into prison. Practically every other state in the union agreed with California in this respect: *crimes* and not mere *talk* were to be punished. We see, then, the first departure which this act made from previous California law: If a man merely *talks* overthrowing the government of this state, he is just as guilty of a crime as though he had tried to storm the capitol building at Sacramento at the head of an army of unshaven and unshorn I.W.W.'s. In other words this law punishes *talk* and not *crime*.

Before this law a man could belong to any organization he wished with impunity. That organization could even *advocate* force to accomplish its ends; and as long as it merely *talked,* no one objected. But what has the Criminal Syndicalism law done? Today if that organization merely *talks* crime, each member of it is as guilty of a crime as though he had assassinated a government official. In fact, those members who had been too timid to even *talk* would be put into cells beside felons. This law departs, then, from previous California law in that it makes "belonging" a crime.

Not only does this act make criminal in the first place mere talking, and in the second place mere belonging, but in the third place it makes for discriminatory suppression. We in the United States have always believed the restriction of any kind of opinion to be dangerous. But if the time ever comes when there must be suppression of opinion, there are some opinions we can better afford to have restricted than others. Yet this law, overlooking our least precious rights, points a discriminatory finger at those very opinions we have always considered most inviolate, namely, political opinions and says: "Thou shalt not utter them." On the other hand it permits anyone to advocate anything to accomplish any other kind of a change. I doubt if ever before in the history of this state we have passed a law so obviously discriminatory.

To summarize thus far we see that this law makes mere talking a crime, it makes mere belonging a crime, and it makes for discriminatory suppression, in that it leaves untouched, advocacy of crime for other purposes, and singles out our advocacy of political or economic change. These are indeed startling departures from our commonly accepted standards of justice. And the question comes to us, under what circumstances ought we to so abrogate the basic principles of our democracy as to support them. We in America, after the many years of our history, have evolved an unwritten law covering such departures. Justice Holmes, of the United States Supreme Court, perhaps as well as any, expresses the spirit of this law in the following words: "We should be eternally vigilant against attempts to check the expression of opinions that we loathe and believe to be fraught with death, unless they so imminently threaten immediate interference with the lawful and pressing purpose of the law that an immediate check is necessary *to save the country.*" It would seem that

even the framers of the Syndicalism law thought some such desperate situation was necessary before an act should be passed, for they put in Section 4 the following statement: ". . . this act concerns and is necessary to the immediate *preservation of the public peace and safety.*" In order to justify such an extreme measure, then, the gentlemen of the Negative must prove such an immediate and over-powering danger to our institutions that this law is necessary for the preservation of this state as a political and economic entity.

Here is where, I fear, we come to a parting of the ways. We of the Affirmative believe,—and it shall be my purpose to prove as the first point in our constructive case—that: THIS LAW IS AN UNJUSTIFIABLE DEPARTURE FROM AMERICAN PRINCIPLES. It is a *departure* because it violates the traditional rights of American citizens. It is an *unjustifiable* departure because conditions in California do not necessitate the existence of so drastic a measure for the preservation of the state.

How, then, does this law violate the traditional rights of American citizens? By striking at the mere advocacy of political opinions it denies a right which we have always considered indispensable to our development as a democratic nation. Our government has been shaped into its present form because individuals have been left free to criticize and even *advocate* force to modify it. As Governor Smith of New York has said: "Political progress results from the clash of conflicting opinions. The public assertion of an erroneous doctrine is perhaps the surest way to disclose the error and make it evident to the electorate." If we suppress these opinions we have not an American democracy but a Russian autocracy. The Czars restricted every opinion inimical to their sway. These opinions were merely safety valves of discontent. The safety valves were clamped down; and things blew up. We in America have evolved another unwritten law which Professor Giddings of Columbia University summarizes in the following words: "Our government is based on the agreement, both tacit and implied, that the minority shall always have the rights of free speech in order to convert itself into a majority. . . . For this reason . . . any attempt to interfere with the rights of free speech and free press is a blow at the very foundation of our government." So jealous were the founders of this government of the right of unmolested expression of opinion

that the very first amendment passed to the Federal Constitution guaranteed its inviolability. Great Americans not only have defended the right of the individual to advocate forcible political changes, but also have practiced this right themselves. A number of years ago a radical American made this statement: "A little rebellion now and then is a good thing." That radical was Thomas Jefferson. Some sixty years ago another revolutionist said: "This country . . . belongs to the people who inhabit it. Whenever they shall grow weary of the existing government they can exercise their constitutional right of amending it, or their revolutionary right to dismember or overthrow it." That man was Abraham Lincoln. But the arch-criminal syndicalist stated this: "We have forgotten the very principle of our origin if we have forgotten how to object, how to resist, how to agitate, how to pull down and build up, even to the extent of revolutionary practices, if it be necessary to readjust matters." That man was Woodrow Wilson.

Were not these men great Americans? Were not they conversant with the principles underlying our democracy? Would they have deliberately spread abroad statements that were un-American? Then why should we in California have a law that is putting men in prison fourteen years for making *those same statements?*

Not only have great Americans always exercised their traditional right of advocating forcible means to change the government, but so thoroughly have these principles been ingrained in the American people that they have always resented any action toward restriction of political opinion. As far back as 1690 the suppression of a publication in Massachusetts led to a violent demonstration of disapproval. The Alien and Sedition laws of 1798, embodying the same principle as the Syndicalism Act, proved so irksome to the ideals of the American people that they arose at the next election and overthrew the party that had passed them. During the Civil War although our integrity as a nation never was more seriously threatened, we considered the right of freedom of opinion so precious, that we did not pass any laws abridging it. I could go on and multiply examples, but a statement of Governor Smith of New York, made while pardoning one of the most notorious individuals ever convicted under a Syndicalism law, explains in a nutshell why we have

never before deemed it necessary to pass laws restricting political opinion. It reads: "Our state rests too firmly upon the devotion of its citizens to require for its protection an imprisonment of five years for the mere expression of an erroneous, or even an illegal political doctrine unaccompanied by an overt act."

We have seen, then, that this law is a *departure* from our traditional rights. I shall next show that it is an *unjustifiable* departure, because conditions in California do not necessitate the existence of so drastic a measure for the preservation of the state.

Let us turn again to Justice Holmes' statement and remember that it has been our policy not to pass such suppressive measures unless it be necessary *"to save the country."* Five years ago we were at war. Our existence as a nation depended upon a speedy and successful termination of that conflict. We thought at the time—though subsequent events have shown our mistake—that there were enough radicals in this country to seriously interfere with the prosecution of the war. In other words we felt—whether rightly or wrongly—that our existence depended on the passing of such an act. We enacted, therefore, espionage and syndicalism laws all over the country abridging freedom of speech and action. This was done during a time of stress. And we of the Affirmative are willing to grant that laws of that nature are to be *tolerated* at such times. But let me remind you of an all-important fact: THE WAR IS OVER. Its supposed concommitant dangers have passed. Yet we in California, one of the most prosperous and peaceful commonwealths in the most prosperous and peaceful of the nations, have redoubled our prosecutions, as though the Reds were knocking at our very gates. Suppose the gentlemen can prove—and this they will have the utmost difficulty in trying to do—that our existence as a state at that time depended upon the passing of this Syndicalism law; how can they conceivably support it today? What situations or crises resultant from the presence of I. W. W.'s in this state are endangering the very foundations of our government? Where is the I. W. W. army that is marching upon Sacramento today? After nearly five years of prosecutions under this law, only ninety-seven I. W. W.'s and other radicals are imprisoned in San Quentin today for merely belonging to an organization which is supposed to advocate force. By what stretch of the

immagination can we be led to believe that these ninety-seven men, who never even advocated, let alone committed, a single deed of violence, could overthrow a commonwealth consisting of three million five hundred thousand people, backed by the army and navy of the United States of America? If the I. W. W. peril exists—and it must exist if this Syndicalism law is to be supported—we are heartily in favor of hiring a private detective to find out where their army is bivouacing.

Let me repeat: THE WAR IS OVER. And California seems to be the only state in the union that has not realized this fact. We in California, after the war, but still under the influence of that wartime hysteria, passed our Criminal Syndicalism law, falling in line with thirty-two other states. But today in these other states, syndicalism laws have either been repealed, declared unconstitutional, or allowed to become dead letters. California is practically the only state in the United States actively prosecuting under a criminal syndicalism law, and I might add that we are jailing more men and women today for the expression of their own opinion than any other state in the union. It is high time that we awoke from our slumbers and got in step.

By way of summary—you will remember that I have shown the first main point in the Affirmative case this evening: THIS LAW IS AN UNJUSTIFIABLE DEPARTURE FROM AMERICAN PRINCIPLES. It is a *departure* because it violates the traditional rights of American citizens. It is an unjustifiable departure because conditions in California do not necessitate the existence of such an act for the preservation of the state. My colleague will close the Affirmative case by presenting our second point: This law in actual operation is proving itself to be a wrong method of dealing with radicalism.

After all, we shall always have a few radicals. And history has proved that the best way to dissipate their doctrines is to let them alone, as long as they merely *talk*. If they commit *crimes*, of course there are laws for their punishment, but, as William Allen White says, there is a vast difference between the man who throws a bomb and the man who throws a fit. England, the nation having the least trouble with radicals, has found that the best way to combat them is to let them air their doctrines; then their errors become apparent. In London there is a square reserved especially for soapbox orators, who may feel free to say

anything they want on any subject they chose at any time. We would recommend for your consideration the classic example of a policeman in Hyde Park who moved a traffic obstructing anarchist off the sidewalk with the admonition: "You can 'ang the king and queen just as well h'on the grass plot h'over there." It is our sincere belief that individuals of that type can do far less damage on the grass plots than in the cells of San Quentin.

SECOND AFFIRMATIVE

Stanley A. Weigel, Stanford

Ladies and Gentlemen: In the sixteen minutes allotted to him, the gentleman of the opposition has contended that the California Criminal Syndicalism law adds nothing new to California legal principle or practice. The California Criminal Syndicalism law has put more than a hundred men into prison against whom not one act of crime or violence of any kind has been charged or proved. As the first Affirmative speaker has at least intimated, we are inclined to consider such persecution a radical departure from previous California law. But even if we should grant, for the sake of argument, that it does not add anything new, does that make it any more right? To turn to constructive arguments—

Mr. Bailey has shown that the law which we are considering this evening is an unjustifiable departure from the principles of American democracy—a departure because it violates the traditional rights of American citizens—an unjustifiable departure because there were and are no extenuating circumstances to warrant it.

It devolves upon me to show that the Criminal Syndicalism law is a wrong method of curbing radicalism. It is a wrong method for three principal reasons: first, it has created an artificial radical problem all its own; second, the inevitable abuses of the law constitute a greater evil than any against which it may have been directed; third, it is futilely directed at effect and totally ignores cause.

The rise of the Irish Free State, the destruction of the German empire, the presence of bolshevism in Russia, the very existence of these United States of America are all historical testimonials to the fact that suppression never overcomes radicalism.

And when the legislators of this state sought to cure a local radical problem by a law of suppression they did not escape the historical and inevitable results of such tactics. Shortly after April 30th, 1919, it became known that the state of California was putting men into jail for their beliefs. This caused many conservative and respectable citizens to oppose the law. But the opposition was not restricted to those whom we call respectable. The last world-wide convention of the I.W.W. held at Chicago ordered all footloose members of the organization to California to oppose the law. As a result there has been an increasing influx of I.W.W.s into the state because of the very law that was designed to keep them out.

But that has not been all. American Defense Unions, the American Civil Liberties Union, Labor Defense Councils—high-sounding names for radical organizations—have been flooding the country with literature which this law was expected to suppress. The pamphlets bend but do not break the law but the power of suggestion makes them just as effective as though they actually violated the law. Incidentally, they are helping "Californians Incorporated" to advertise the state for they bear such complimentary titles as "California, the Beautiful and the Damned" or "California, the Land of Orange Groves and Jails."

But most convincing of all in showing just how the law has operated is the story of Los Angeles and San Francisco. No county in the state has been more active in prosecuting under the Criminal Syndicalism law than Los Angeles. Every opportunity was seized to throw men into jail on charges of criminal syndicalism. Arrests under the law were positively wholesale. In San Francisco, however, the authorities saw in the law a menace to freedom and consistently refused to prosecute a single case under it.

That was the setting of the stage when the big event came. The I.W.W. called another of their world-wide comic opera strikes. And the world, including Los Angeles, prepared to sit back and enjoy a huge joke the next day. In San Francisco, where the Criminal Syndicalism law was never invoked, the movement was given even the dignity of a good joke for not a single man left his job. In Los Angeles, where possession of a red card in the hip pocket was more dangerous than a flask in the same place, three thousand men left their jobs in the harbor

of San Pedro. So where the Criminal Syndicalism law was applied the most, where membership in the I.W.W. was more dangerous than anywhere else in the universe, the I.W.W. staged the largest and most successful strike they have ever staged before or after in history. Small wonder that Eugene V. Debs once said, "There is nothing that helps the Socialist Party so much as receiving an occasional death blow. The oftener it is killed the more boundless, the more active, the more energetic, the more powerful it becomes." The I.W.W. of this state certainly ought to be grateful for the death blows this law has dealt them.

The foregoing will give you some idea of the artificial radical problem the law has created and since the law is the cause of the problem it is obvious that the only solution is the repeal of the law. Now let us turn to those inherent abuses of the law which constitute a greater evil than any against which the law may have been directed.

There are ninety-seven men in San Quentin prison tonight for violation of the Criminal Syndicalism law. They have all been convicted on but one clause of the law, by name, Section 2, clause 4. Stripped of its legal phraseology it means that to send a man to the penitentiary on that charge, three things must be proved. First, that he is a member of an organization; second, that he became a member of that organization while in full possession of his senses; and third, that the organization of which he knowingly became a member is criminally syndicalistic.

Since members of the I.W.W. have yet to deny membership, the first point is proved by the admission of the prisoner. The prisoner admits also that he became a member knowingly. So the first two points are proved by the admission of the accused. But the I.W.W. member will never admit that his organization is criminally syndicalistic. To prove the final charge, therefore, the prosecution resorts to its own means. (All that follows is a matter of record.)

The district attorneys of this state have in their employ some half dozen professional witnesses who have spent their time since 1919 traveling up and down the state to testify at these trials. Three of the most prominent by name are Elbert Coutts, John Dymond, and one Townsend. One is a self-confessed burglar and has served time in San Quentin, the other, a self-confessed perjurer, has also spent numerous of his days in prison. The

third has an equally enviable record having enjoyed the acquaintance of many of the prominent wardens of many of the jails throughout the state.

These men testify that in 1917 they burned haystacks when they happened, at the same time, to be members of the I.W.W. Mr. Coutts, Mr. Dymond, and Mr. Townsend burned haystacks in 1917! THAT, Ladies and Gentlemen, is the convicting testimony against ninety-seven men in San Quentin prison.

At this point it will be well to consider whether these evils are really inherent in the law or merely a matter of faulty application.

In the first place, the very fact that wherever you have had criminal syndicalism trials, there you have had professional witnesses, without exception, is pretty conclusive evidence that such evils are inherent in this type of law. And this arises from the fact that all that need be proved is the character of an organization—the same testimony by the same witnesses can be used in every case.

But not only is the law wide open to abuse in the attempt to secure convictions, it is even more likely to be abused in the making of arrests. The policeman instructed to enforce this law finds himself embarrassed by an unusual demand upon his discretion. Here it is not the relatively simple matter of arresting a man who breaks a window or robs a store. Here there is no overt act. The policeman must decide if what a man says, or writes, or thinks, is illegal. That is no easy task in normal quiet circumstances and may readily lead to wrong arrest. But how much more difficult is such a decision in the heat of a strike with many men saying many things in the confusion of industrial warfare. Here the policeman in his desire to prevent violence cannot help arresting men who seem to be saying radical things. But once he has made the arrest the damage is done, for even though trial may exonerate the prisoner, by that time the strike is over and his constitutional right to say what he wanted to say at that hour is gone forever.

Such was the case in Los Angeles where three hundred and ninety-seven men were arrested and only eight convicted, the others being released after the strike was over. So the law naturally tends to operate to break strikes even though the police have no intention that it should. If such is the case where

the police have no desire to affect the strike—if the law *naturally* operates to break strikes—can you conceive the injustice that would come where one party to a strike had influence over the police force, thus making a weapon of the law?

And this angle is particularly pertinent in California, where, due to open shop agitation and other labor questions and problems, class warfare is particularly keen. To summarize in a single sentence—this penal law which, like all penal laws, should protect society as a whole, tends rather to further the policies and supposed interests of a particular class or group.

It all simmers down to this: in order to secure convictions under this law the prosecution becomes a persecution and instead of prosecuting, it persecutes. It was this feature which caused Professor Max Radin, professor of law at the University of California, to say "The only parallel to be found for a statute of this kind in either the Roman or Anglo-American systems is in the laws against the Christians of the early Roman empire."

I have said nothing of the hundreds of thousands of dollars which have been spent in such persecution.

These are the abuses of the law,—and are not indeed such disgusting perversions of justice a greater evil than any against which the law could have been directed?

One may well wonder how such a situation came about in the state of California, a free state in a free nation. So by way of explanation as well as proof let us turn to my last point that the law is futilely directed at effect and totally ignores cause. This involves a consideration of the I.W.W. Since opinions as to the I.W.W. doctrines are as numerous as those who hold them we shall have to consider only the I.W.W. member himself and not his doctrine. If we know just what the I.W.W. is we can easily find the best way to cure him.

The I.W.W. notion appeals to the least trained, poorest paid, least capable American workmen. Ninety per cent of them are itinerant, migratory laborers. They work in a Des Moines construction gang in the spring. In summer they help harvest the crop in Wisconsin. Fall finds them on a reservoir job in the high Sierras. Winter sees them pop up at some port like San Francisco or Seattle. Mechanized by industry, these homeless men have no stakes in the game of life. They see only the worst of society; rotten bunks, rotten food, rotten pay. That,

in brief, is the problem the legislature sought to solve when it passed the Criminal Syndicalism law.

The I.W.W. may be symbolized as a dirty, unshaven, unshorn and ragged individual. The California state legislature, in the throes of a post war fear complex, saw this individual and decided that something must be done. Since the legislators are law makers, they passed laws against the dirt and the whiskers and the rags. The gentlemen of that legislature were certainly impractical. All the laws in the world will not remove dirt. What the I.W.W. needs, Ladies and Gentlemen, is a bath. And then a barber! And then some clean clothes! In order to get rid of I.W.Wism don't spend hundreds of thousands of dollars to legislate against it, spend that money in removing the conditions which breed I.W.Wism. Apply a little soap and water to industrial conditions. If you see that the migratory laborer gets decent food, clean bunks, and fair pay you won't have any I.W.W. to legislate against. In the words of Professor Lescohier of the University of Wisconsin "We have developed our resources while spoiling our citizens. Hundreds of thousands of migratory workers for whom no individual industries, no community, no particular group of socially visioned people have felt themselves responsible have been steadily deteriorated by a life of migration and irresponsibility."

What we must do, then, is to improve the conditions of migratory labor, we must give better wages, better working conditions,—we must give the migratory laborer a stake in the game of life. To put it in another way, the Criminal Syndicalism law stands for suppression, hatred, and contempt—rather than for toleration, sympathy, and understanding which are requisite to solve the problem. In the words of Abraham Lincoln: "The only way to keep a man from agitating grievances is to relieve the grievances. The seed of revolution is repression."

Summarizing;—the California Criminal Syndicalism law is an unjustifiable departure from the principles of American democracy. And it is a wrong method of dealing with radicalism because it has created a radical problem all its own, because its inevitable abuses constitute a greater evil than that against which it was directed, and because it looks only at effect and ignores cause.

But a better summary than any I could hope to give you, a statement of the very heart of the Affirmative case, is to be found

in a single sentence. And it comes, strangely enough, from a suppressed I.W.W. pamphlet. "You can kill an idea only by a better idea," it says, "never by stone walls and prison bars."

FIRST AFFIRMATIVE REBUTTAL

Thomas A. Bailey, Stanford

Ladies and Gentlemen: The Negative have heralded this law as one that punishes concerted political crime sooner than before. This contention is most interesting in three respects. In the first place we challenge the gentlemen to point out a single clause in the law that makes mention, directly or indirectly, of concerted action. In fact one individual was arrested under this law during the Los Angeles strike for merely reading a copy of the Constitution of the United States. Was this *concerted* political crime? In the second place he speaks of this measure punishing political *crime*. Suppose the gentleman had thrown a bomb into the midst of our state legislature ten years ago. Do you suppose that because there was no Criminal Syndicalism law he would not have received free lodging at state expense that night and for many nights to come? In the third place our opponent will "get" the criminal sooner than before. In other words he will be imprisoned before he commits the crime because it is possible that he may commit a crime. Inasmuch as a man is not freshly shaved and immaculately clothed we had better put him in prison for fourteen years, because he may try to overthrow the government at some time in the distant future. Suppose this principle were extended to other laws. For example, it is safe to say that every motorist here this evening will violate the speed laws at some time in his life. Why, then, according to the reasoning of our opponents should you not step up and pay your fine tonight? No, there must be a line drawn somewhere. And we in California previous to the passing of this law, pursuing a policy which experience has proved the only practicable one, drew this line between an overt act and mere talk. The gentlemen are mistaken when they assert that the other states require no overt act to convict for crime. This principle formerly obtained at Common Law, but according to Corpus Juris, it has been either entirely abrogated or much limited in practice by statutory enactment.

The second speaker of the opposition has painted a lurid picture of what the ninety-seven imprisoned radicals might have done if they had been left free to do it. He talks about individuals who burned bridges, bombed buildings, and wrecked machinery. Prisons were built for such men; and if guilty of these crimes we do not need Criminal Syndicalism laws to send them there. He tells of some morons, who are going to hold the officials of our large cities as hostages. Insane asylums were built for such men; and we do not need Criminal Syndicalism laws to send them there. He speaks of the unholy tenets that the I.W.W. stand for. All right. As long as they merely stand for them, let them alone. When they commit actual crimes to accomplish them we can clamp them into prison, Criminal Syndicalism laws or no Criminal Syndicalism laws. We would remind our opponents that over ninety such radicals as they describe were imprisoned in Federal penitentiaries at the beginning of 1923. Mr. Coolidge—our I.W.W. President,—considered them so inimical to our safety that he granted every one an unconditional pardon before the end of 1924.

We agree with the gentleman of the opposition when he says that this law was passed to meet a particular situation which we thought existed at that time. And granting that the situation at that time was serious enough to warrant such a measure, need I remind our opponents that it no longer exists? Need I remind them that the thirty-two other states that passed similar laws no longer use them? Then why should not we in California awake from our lethargy and get in step?

SECOND AFFIRMATIVE REBUTTAL

Stanley A. Weigel, Stanford

Ladies and Gentlemen: I thank the gentlemen of the opposition, for their fearless stand with regard to bathing. And, what is more, I believe they are sincere.

It is to be questioned, however, whether the cornerstone of the Negative case—that the Criminal Syndicalism law punishes crime and nothing else—can stand a bath, a cold shower of harsh and uncompromising facts.

I am holding before your eyes a bundle of suppressed I.W.W. literature, our possession of which indicates how ad-

mirably the law suppresses forbidden doctrines. I hope there are no policemen in the audience for I have violated Section 2, clause 3 of the Criminal Syndicalism law. With a prison sentence of from one to fourteen years staring me in the face, I would like to call your attention to the fact that the gentlemen of the opposition contend that the law punishes crime and crime alone.

But the funny part about this law is that it does put men into prison on the basis of acts just as farcical as the one I have just committed. For example:

Upton Sinclair undertook to read the Constitution of the United States of America on private property with the permission of the owner in the city and county of Los Angeles. In order to prevent this horrible crime the chief of police arrested him in the act, on the charge of Criminal Syndicalism. Perhaps the gentlemen of the opposition will excuse this by pointing out that it is just an evidence of Los Angeles' inadvertent tendency to advertise.

To give another typical example of the crime this law punishes: In the year 1917 Thomas Fruitt was fighting for democracy across the seas. Five thousand or so miles away in sunny California, Messrs. Coutts, Dymond and Townsend were engaged in the manly act of burning haystacks. After the war Fruitt returned to California. He joined the I.W.W. as a means of expressing his political beliefs. His membership was ascertained and Mr. Coutts obligingly (we have county records showing he gets an average of $200 per case) came to the aid of the law and helpfully remembered that he burned haystacks in 1917. Fruitt on the basis of that testimony now languishes in the cells of San Quentin.

And so on ad infinitum—in fact almost every conviction under this law has been just such a perversion of justice.

Now as to the little love ballad the gentleman of the opposition has horrified us with. It was written by Captain R. W. Kendricks, U.S.A., and published in the 1914 or 1915 volume of the Literary Digest. The I.W.W. considered it an excellent description of the war in Europe—both sides urging their men to kill, both sides claiming that God justified their acts—and as such incorporated it in their song book. But the I.W.W. realize that the war is over and in this, their latest edition of the song book, it is not to be found.

Now as to the Communist Labor Party of Oakland. When, as the gentlemen of the opposition have told us, seven men and women were put in prison because they intended to "go out in the peaceful cities of Oakland and San Francisco, seize twelve prominent men, and hold them as hostages for the revolution they believed to be imminent" we agree that they should be isolated from the community. But they should not be put within the confines of four cement walls. The state insane asylums are equipped with padded cells for such individuals who need the care of a pathologist.

After all, Ladies and Gentlemen, our regular laws maintain order and prevent violence and crime. Not one act of violence, crime of word, deed, or action has been charged against any one of the hundred and six men convicted under the Criminal Syndicalism law. And by putting men into jail for their opinions or their thoughts, the Criminal Syndicalism law makes martyrs of the men it arrests. Emerson said truly of the martyr:

> The martyr cannot be dishonored. Every lash inflicted is a tongue of flame; every prison a more illustrious abode; every burned book or house enlightens the world; every suppressed or expunged word reverberates through the earth from side to side. The minds of men are at last aroused; reason looks out and justifies her own, and malice finds all her work is ruin. It is the whipper who is whipped and the tyrant who is undone.

America rose as a protest to suppression. America grew and prospered because she fostered the supressed peoples and suppressed ideas of the Old World. America is now the most independent and powerful nation in all the world as a result of the liberty she has guaranteed to all within her domain. And now, in the height of our glory, are we as good Americans —better, are we as sincere human beings—going to allow smug self-complacency to deny our contemporaries the very rights which are the basis of our existence?

CLOSING AFFIRMATIVE REBUTTAL

Thomas A. Bailey, Stanford

Ladies and Gentlemen: What is this debate all about after all? We of the Affirmative have consistently maintained that if a man burns a haystack, if he throws a bomb, he should be

thrown into prison. On the other hand the gentlemen of the Negative have spent nine-tenths of their time in telling us that if a man burns bridges, breaks water-pipes, wrecks machinery, or throws bombs, he should be thrown into prison, Why of course he should. When guilty of such crimes he was jailed long before Criminal Syndicalism laws were even thought of, and he will be long after they are forgotten. Thus far we are in perfect agreement. But the real issue of this debate is: Shall we imprison a man for merely talking, for merely expressing political opinions? And how have the gentlemen met this issue? They tell us that when John Jones is imprisoned for expressing on a street corner the views of Jefferson, Lincoln, and Wilson, he is not jailed for having talked. Oh, no. He has committed a political crime. What crime? The crime of saying "I believe," the crime of expressing his opinion. In other words, by juggling phraseology, the gentlemen have dodged the issue. I can call this desk a table but that does not obviate the fact that the desk is still a desk and not a table. Similarly, instead of proving that talk, unaccompanied by an overt act, is and should be criminal, our opponents have merely shoved "talk" into the category of "crime" and presto! talk is criminal. The Negative can continue to call talk crime. But their mere calling does not change the fact that when a man says "I believe" he is merely expressing an opinion and not committing a crime. And their mere calling will not convince us that we are not departing far from the basic ideals of our democracy as long as we have on our statute books a law that is putting men in prison fourteen years for expressing the selfsame ideas as those uttered by the founders of this nation.

Negative Speeches in Debate Against the University of Southern California

FIRST NEGATIVE

Bert Levit, Stanford

Mr. Chairman, Ladies and Gentlemen: California's Criminal Syndicalism problem started some time ago. In the spring of 1913 a large number of I.W.W. poured into San Diego, ostensibly with the idea of making Southern California

their headquarters. They filled the jails in the vicinity and the situation got beyond the control of the local authorities. Governor Johnson sent down a committee which finally restored order, (the affair cost San Diego in the neighborhood of $1,000,000), and this committee reported that *the existing statutes were inadequate.* This, in 1913.

Some years later there was an I.W.W. uprising in the hopfields near Wheatland which paralyzed the entire county. The local authorities attempted to restore order with the result that the district-attorney and the sheriff of Yolo County were murdered, and a deputy-sheriff was wounded. Ford and Suhr were convicted of the shooting and sentenced to life imprisonment. The I.W.W. are still agitating for their release. In 1916 the I.W.W. Defense Committee of California sent a resolution back to Chicago which was there approved by the Tenth Convention of the I.W.W. That resolution read—

Fellow Workers:

Ford and Suhr were sentenced to life imprisonment for their activities in forcing better working and living conditions in California. Agitation and action on the job was continually carried on by the members of the I.W.W., and the State of California has already paid *eight million dollars per year for holding Ford and Suhr in prison.* What we want is men and lots of men to help us battle the employing class of California *by any and all means at our command.*

C. L. Lambert, Sec'y.

$8,000,000 per year—and these are the men who today are urging us to repeal the Criminal Syndicalism Act *because it costs so much to enforce it.*

I.W.W. posters and incendiary fires began to appear simultaneously throughout the state.

In 1918, during the district meeting of the I.W.W. at Sacramento, the governor's mansion was dynamited, and the crime was traced to I.W.W. headquarters. As a result, forty-six members were prosecuted by the Federal government under the Espionage Act.

There was a state-wide demand for a statute to meet the situation and Governor Stephens promised that if he were elected something would be done. He was elected and immediately asked Mr. Raymond Benjamin—a member of the committee sent by Governor Johnson to San Diego in 1913—to draft

a statute. Benjamin drew up the Criminal Syndicalism Act, and it was passed by the Legislature in 1919.

And now for the law itself.

In discussions of the California Criminal Syndicalism Act there has unfortunately been a confusion of two ideas—one, the suppression of opinion, and the other, the punishment of crime. We of the Negative agree with the gentlemen of the Affirmative that the suppression of opinion (and particularly of opinion on political and economic subjects) is fatal to a democracy. But we believe that the punishment of crime is both just and necessary; and the Criminal Syndicalism Act, as I shall attempt to prove, does not suppress opinion,—*it punishes crime.* As a California Court said:

> While it is true that it has been proved in trials under the Criminal Syndicalism Act that the I.W.W. stood for a singularly drastic system of government, we cannot say that the mere teaching or advocacy of that system is beyond the rights of any citizen. . . . But in these cases there was evidence which showed that the members of said organization habitually taught and advocated the carrying out of its principles *by criminal means;* and this was the fundamental vice of the system advocated by said organization, and which justly subjected its members to prosecution and punishment.

We agree with the gentlemen of the Affirmative:—the last opinions to be suppressed are political opinions; but we maintain that the first crime to be punished is political crime.

Criminal Syndicalism is defined in the Criminal Syndicalism Act as—

> . . . any doctrine or precept advocating, teaching, or aiding and abetting the commission of crime, sabotage, (which is wilful and malicious physical damage to physical property), or unlawful acts of force and violence, or unlawful methods of terrroism, as a means of accomplishing a change in industrial ownership or control, or affecting any political change.

Just what does the Criminal Syndicalism Act add to California law? Altho the name "Criminal Syndicalism" is new to California law, the essential elements of this new crime, its component parts, have always been *criminal in California.* These are *crime, sabotage, unlawful* acts of force and violence, and *unlawful* methods of terrorism. The Criminal Syndicalism Act merely enables the state to reach and punish *sooner than before, concerted political crime.*

No part of the Criminal Syndicalism Act has been more vigorously condemned by the opponents of the act than the so-called "political and industrial change clause." On the strength of this clause the act has been labelled un-American; it has been called undemocratic; it has been condemned as political persecution. These are serious charges. What foundation is there for them? What is the effect of the clause in question? If the political and industrial change clause had been omitted, criminal syndicalism would be any doctrine advocating the commission of crime *for any purpose whatsoever.* But the Criminal Syndicalism Act does not go this far. Why? Because its scope is *limited* by the political and industrial change clause. In other words, this clause adds not one single thing to the other provisions of the act, and its only effect is to materially *restrict the scope* of these other provisions. But is not this discrimination? And is it not political persecution? The act was passed, as I have pointed out, to meet a particular situation—that of organized effort to bring about *political and industrial* changes by *criminal* means. Naturally, the act was made only as broad as was necessary to meet that particular situation—hence the political and industrial change clause. If at the time the act was passed there had been an organized effort to bring about *religious* changes by *criminal* means, the act would have included such effort also. Would this have been religious persecution?

The California Supreme Court in the case of The People *vs.* Steelik said:

> It seems clear that not more than three crimes are described in the Criminal Syndicalism Act: one, the commission of a crime for the purpose of effecting the desired change; two, advocating the commission of such a crime, although it might not have occurred; and three, forming or belonging to a criminal conspiracy for the purpose of committing such a crime.

—and this must be taken in connection with the obvious purpose of the legislature to stop *concerted* effort to overthrow the government by force.

Insofar as the act makes criminal the actual act or deed of violence it adds nothing to previous California law, since the commission of an act or deed of violence, with whatever end in view, has always been criminal in this state as elsewhere.

Let us turn to the second part of the act: i.e., advocating the commission of a crime to effect a political or industrial change. In California, a man who tells another to commit a crime is a criminal, and he is punished—but not until the crime is committed, or at least attempted. Under the Criminal Syndicalism Act, if the crime advocated is intended to bring about the overthrow of our government, we can punish the advocate *sooner*—we need not wait until the crime is committed and the damage done.

If you had an enemy who had designs against your life; and if you knew that he had been advising your neighbors to get together and lynch you; would you feel that this enemy should go unpunished until after you were lynched, or would you think it perfectly proper that he be put in cold storage for a while? If you value your life, I know what your answer will be. And if you value your country, you will understand why this proposition was embodied in the Criminal Syndicalism Act. Remember too, that when California adopted this proposition she merely fell in line with what is the generally accepted law in both England and the United States—that to advocate the commission of crime is itself criminal.

Turning now to the third and most important part of the act; i.e., forming or belonging to an organization, the purpose of which is to cause the commission of crime to bring about a political or industrial change. A criminal conspiracy is a partnership in crime. It is an organization which attempts to further the commission of crime for any purpose whatsoever. So the California Appellate Court has said:

> If the word "conspiracy" were substituted for the words "organization, society, group, or assemblage" the meaning of the act would be in no wise changed.

When one man makes up his mind to commit a crime, society does not attempt to punish him unless he does something more than this. But when several men conspire together to further the commission of crime, the combination itself creates such a new and additional power to cause injury, that society feels it necessary to punish these men without more. To quote from a recent article in the Harvard Law Review:

> It is a universal and well-settled doctrine of the modern law of criminal conspiracy that no other act besides such conspiracy is necessary for an indictable offense.

Now, conspiracies to commit crime are criminal in California as well as elsewhere, and the members of such conspiracies are punished in California as well as elsewhere, but the legislature felt it unnecessary to punish the members of such conspiracies until some member thereof committed or tried to commit the crime. The Criminal Syndicalism Act enables the state to reach and punish, *sooner,* members of criminal conspiracies, the crimes and unlawful practices of which are aimed at the forcible overthrow of our government. We agree with the gentlemen of the Affirmative: the last opinions to be suppressed are political opinions, but we maintain that the first crime to be punished is political crime.

I have attempted to analyze the Criminal Syndicalism Act and to show wherein it adds to California law. Clearly the act is not a radical departure from California law, and insofar as it does add, it only follows generally accepted legal rules and principles. The Criminal Syndicalism Act leaves you and me and the I.W.W. free to advocate socialism, bolshevism, anarchism,--what changes we will. It prevents and punishes concerted effort to bring these changes about by *criminal means. The Criminal Syndicalism Act does not suppress opinion, it punishes crime.*

SECOND NEGATIVE

Robert Littler, Stanford

The last Affirmative speaker has based a large share of his antagonism to the Criminal Syndicalism law on the ground that it looks only at effects and totally ignores causes. Says the gentleman, "What the I.W.W. needs is a bath, and then a shave, and a haircut." Now, we who defend this law would be pleased to have it understood that we do not disparage bathing in the least. In fact, we can easily imagine circumstances when we could be persuaded to indulge ourselves. We say with the gentleman, give the I.W.W. a bath, and a shave and a haircut. Apply all the soap and water to industrial conditions you can. But after all the baths, and shaves, and haircuts, until the millenium is ushered in, until society is perfect, there will be in our midst those who believe institutions ought to be changed, and are so imbued with that belief that they cannot wait to convince the rest of the people but must proceed to put those ideas into practice in our country by violence and revolution. For that

irreducible minimum of dangerous malcontents, we advocate that this present law should not be repealed.

At the outset of this debate tonight, my colleague and I set ourselves the task of proving both that the California Criminal Syndicalism law was sound in theory and that it has succeeded in application. Mr. Levit has pointed out to you that the principle of the law is sound because it merely follows already accepted legal principles; it does not suppress opinion, it punishes crime. It is now my duty to answer the question, How has the law worked in practice?

There are two objects of any criminal law: first, to deter crime, and second, to remove dangerous people from the community. It is obviously impossible to mathematically calculate exactly how much crime may or may not have been deterred by the Criminal Syndicalism law, but it is possible to pick out certain very definite instances where the law has been applied to the distinct advantage of the people of the community.

The people of Los Angeles have had an example of this. My friend of the opposition believes that the Los Angeles strike demonstrates that the application of this law strengthens the I.W.W. But in analyzing that Los Angeles situation the gentleman has overlooked a very important point. The interpretation of the calling of that strike is to be found in the fact that for years before any Criminal Syndicalism law was ever dreamed of, Los Angeles was having just such strikes as the one of which he has spoken. They have been characteristic of Los Angeles. The strike was aimed at a condition in the Los Angeles harbor and the only connection with a world wide I.W.W. movement was that it was called about a week before the I.W.W. movement took place, though I.W.W.'s participated in the strike.

In the actual contest, as long as the strike was peaceful, the authorities did not interfere. But when the leaders of the strike began to see that they were failing by peaceful means and began to advocate violence, when they began to lead parades singing inflammatory songs, when "Big Rosy" and his phosphorous gang appeared on the scene ostensibly armed for action, when intimidations were made against the safety, not of the workers, but of the workers' wives and children, when pipes were broken in the Signal Hill Oil district, when fires were started in the outer Los Angeles harbor, when threats were made against the lives of Chief of Police Oaks and Captain Plummer, and two

attempts made to mob the San Pedro jail,—then the authorities deemed that things had gone far enough. The leaders of the movement were arrested under the Criminal Syndicalism law. The strike went on, and with its conclusion we have no concern. But one thing is important: the violence was stopped as a result of the prosecutions under this law.

The good people of Sacramento have had the same experience. During the three years of 1916, 1917, and 1918 the farmers of Sacramento County lost nearly $50,000 through incendiarism, yet in the last California Legislature in Sacramento Assemblyman Hornblower, who had introduced a bill for the repeal of the Criminal Syndicalism law, was forced to admit that there had not been one important act of sabotage since the passage of this act in 1919.

In Alameda County they have come to the same conclusion. Experience there shows that criminal syndicalism rises in waves. In 1919 a wave was started and immediately its leaders were prosecuted under the Criminal Syndicalism law; and the wave was broken. In 1921 the same gang became brazen and flared forth with threats of violence and destruction, and again there were prosecutions, and again the wave was broken. In 1923 there was a third wave, a third set of prosecutions, and for the third time the wave of violence was broken through this law. But, says Assistant District Attorney Snook, had there been no Criminal Syndicalism law, had there been no prosecutions, there is no telling what might easily have happened.

Thus in three very definite cases, the Criminal Syndicalism law has operated to the distinct advantage of the people of the particular community.

But, it is more possible to discover the exact results of this law in observing the people it has removed from the community. There have been one hundred and six convictions for criminal syndicalism. Seven of these have been for membership in the Communist Labor Party, and ninety-nine for membership in the I.W.W.

That the Communist Labor Party is nothing more nor less than a criminal conspiracy is boasted in its very constitution. It expresses the object of the party as "to greet the revolutionary proleteriat and to pledge them our whole-hearted support in their struggles." To accomplish this they advocate, among other things, "We must arouse the coal miners to armed insurrection.

Let them blow up and flood the shafts. This prepares them for the coming revolution in America."

At the time their plot was discovered, they were in process of organizing what they called a "Red Guard" with which they were to go out in the peaceful cities of Oakland and San Francisco, seize twelve prominent men, and hold them as hostages for the revolution they believed to be imminent. Certainly, they could never have succeeded in their plan, but the danger was made very real to those twelve prominent men when they came to their offices one bright, shining morning and opened their mail notices to the effect that, "you are marked for extermination. The class war battlefield of the future will be in the haunts and homes of the scoundrels of your stripe."

And so when seven leaders of an organization whose chief excuse for existence is admittedly the commission of crime, when seven leaders of that organization were placed behind the bars, seven dangerous people were removed from the community.

But there were ninety-nine I. W. W.s arrested under this law, and it is of much more importance to note exactly what they stand for. Vincent St. John, who was National Secretary-Treasurer of the I.W.W. until he was retired from that office to Fort Leavenworth prison by the United States government, says, "As a revolutionary organization the I.W.W. aims to use any and all tactics that will get results. The question of right or wrong does not concern us."

Just as an example of the propaganda that this organization dispenses and the propaganda which is prohibited by this law, I wish to read to you one of the official songs of the I.W.W. It was called to my attention by Mr. Raymond Benjamin of San Francisco, who while in the Attorney General's office was the author of this law. He told me that he refused to make use of this song in his debate before the California Legislature last spring because he thought it too vile, too blasphemous to be read before a mixed audience; and I quote it to you now only with a sincere apology, and with the hope that you will understand my reason for so doing:

Onward Christian soldiers, rip and tear and smite;
Let the gentle Jesus bless your dynamite.
Burn the peasants' cottages, orphans leave bereft;
In Jehovah's holy name, wreak vengeance right and left.
All your acts are sanctified by the Lamb on high,
If you love the Holy Ghost, go murder, kill, and die.

They carry out this spirit in their acts. Justice P. J. Finch of the California Appellate Court, in summarizing one of the I.W.W. trials, says; "The chemicals were identified as powdered emery, phosphorous, sulphuric acid, potassium nitrate, potassium chlorate, and a 20 per cent solution of potassium hydroxide. A member admitted that these were kept on hand for such purposes as starting fires, injuring machinery, and putting the last named chemicals into the shoes of the men who refused to join the I.W.W."

Thus, concludes the California Supreme Court, "The I.W.W. is as clearly a criminal organization as if it were mentioned by name in the act. Their record overflows with the most distardly crimes known to criminal law resorted to for the avowed purpose of attempting to intimidate the people into accepting the principles of the I.W.W.

Is it any wonder that the wardens of our two state penitentiaries tell us that even among prisoners criminal syndicalists are dangerous and one of them even goes as far as to say, "They are usually the worst type of prisoners that we have to deal with, and exhibit a total contempt for prison rules and regulations."

In actual operation, therefore, the Criminal Syndicalism law has operated to deter crime, and to remove dangerous people from the community.

Now, with the advocacy of pure political opinion, as we have explained before, this law has not the slightest concern. As the California Supreme Court itself has said: a man may with perfect impunity advocate bolshevism, socialism, dictatorship of the proletariat, the Third International, the red flag. He may advocate any form of government at all, or no government,—anarchy,—and still keep within his perfectly legal rights. But the minute he steps across the line and says we shall put these ideas into practice by sabotage, violence, destruction of life and property—then he has clearly crossed the line of demarkation between right and wrong. The law which makes this criminal does not add materially to previous California statute, it merely follows accepted principles of legal procedure.

We who defend this law do not believe that immediately on its repeal this country will be threatened by any great and powerful revolution. And we utterly fail to see how our opponents can claim that the retaining of this law on our statute

books is going to wreck our system of justice. But we do try to look at the situation from a sane, unbiased point-of-view. There have existed in California organized attempts at political crime; the California Legislature recognized this fact and in 1919 passed the Criminal Syndicalism law, a law that is not a radical departure from previous California law, but one that follows already accepted principle, a law that does not suppress opinion, but punishes crime, a law that has in actual practice tended to deter crime and to remove dangerous people from the community.

When the gentlemen of the Affirmative stand forth on this platform and say the last opinions in the world to be suppressed are political opinions, we are in hearty agreement with them, but rather than blind ourselves to the fact that criminal conspiracies do exist, we insist on adding to that: the first crimes to be punished are political crimes.

FIRST NEGATIVE REBUTTAL

Bert Levit, Stanford

Mr. Chairman, Ladies and Gentlemen: The gentleman of the Affirmative has repeatedly and vigorously condemned the Criminal Syndicalism Act because it punishes a man for "mere talking" and "mere belonging." And he has further said that for this reason the Criminal Syndicalism Act *does* suppress opinion, and does *not* punish crime.

If my opponent approached you and gently but persuasively whispered in your ear the advisability of setting fire to this Quadrangle; and if you followed his advice and set fire to the Quadrangle; and if subsequently, an officer of the law placed my opponent under arrest, my opponent would doubtless exclaim: "Let me alone. I did not commit any crime. When I told someone to burn the Quadrangle, I was *merely talking.*"

And would the policeman let him go? Not on your life he wouldn't because my opponent would have *committed a crime.* What crime? Clearly not the crime of burning the Quadrangle, for my opponent did not burn the Quadrangle. All that my opponent did, (and so all he could be arrested for) was to tell another to commit a crime.

It is clear then that the man who tells another to commit a crime is himself a criminal. The California Penal Code recognizes this, but, curiously enough, does not provide for the punishment of this man until the act of crime is committed,—until the damage is done. As I have pointed out, the Criminal Syndicalism Act enables the state to punish the advocator of crime (who is undisputably a criminal, though he *merely talks*) before he succeeds in getting someone to commit the crime. And note, too, that the Criminal Syndicalism Act only applies to the advocacy of crimes aimed at the overthrow of our government itself—the class of crime that should be the first to be punished.

How about the punishment of *mere belonging?* If my opponent and three other students joined together for the purpose of bringing about the death of a high officer of this University; and if one of them, unknown to my opponent, went out and bought a gun for this purpose; and if, learning of all this, a policeman arrested my opponent on the charge of belonging to a criminal conspiracy, my opponent would doubtless say to the officer: "Let me alone. I did not commit any crime. You cannot arrest me because I *merely belonged.*"

But the policeman would not let him alone, because my opponent *would have committed a crime.* What crime? The crime of *belonging* to a criminal conspiracy. This was criminal before the Criminal Syndicalism Act was even thought of. All that the Criminal Syndicalism Act does in this regard is to enable the state to reach and punish the criminal members of criminal conspiracies, *before* the crimes they further are committed. And again, this applies only to conspiracies to commit political and industrial crimes—the most dangerous of them all.

No, the Criminal Syndicalism Act does not suppress opinion; it punishes crime.

My opponents accuse my colleague and me of being superficial. They tell us that I.W.W. and kindred organizations are the products of social maladjustment. They say that political and economic unrest is caused by deep-rooted economic factors, and if we would really solve the problem we must remedy these. True. But on the other hand, burglary is caused by a faulty distribution of the world's goods. And if we would stop all burglary we only have to see that every man has enough property so that he will not want to steal. However, that fact does not lead us to repeal the burglary laws.

Make all the economic and political reforms you wish—but in the meantime let us not repeal the Criminal Syndicalism Act which enables the state to defeat the criminal purposes of organizations formed to further the commission of crime—for a legitimate end to be sure, but the end cannot justify the means.

SECOND NEGATIVE REBUTTAL

Robert Littler, Stanford

I hold in my hand a watch. It belongs to my colleague. I trust there are no police in the audience, else I am liable to arrest for thievery.

Now, you know and I know that I had no criminal intent, just as the gentlemen of the opposition are not liable for criminal syndicalism for the possession of I.W.W. pamphlets. There is not a statute on our books which if applied to the extreme would not produce some unique results. The only trouble is that judges and juries still have brains. As long as I have no criminal intent, I am not guilty. But if I intended thievery, I would be guilty, just as if the gentlemen were trying to arouse you to violence and destruction, they would be guilty of criminal syndicalism, and rightfully so.

The attacking argument tonight has grouped itself around two contentions: the law is a departure from American traditions, and it is subject to abuse.

My colleague has pointed out in his first argument that this law was not a radical departure from previous California law. Always in California it has been criminal to advocate or conspire to commit crime. Before, we waited until the final act was committed.

But if I tell my colleague to murder my worthy opponent, and he does so, I am liable. For what? For murder? No, for telling him to murder: talk, my friends of the opposition, *mere talk*. Now, as far as I am concerned, wherein is *my* guilt changed whether my colleague actually commits the murder or not? Wherein am I one whit more guilty after my colleague fires the shot than before? Therefore, why does my opponent advocate that I be not punished for *my* crime until after he is dead, when the chances are if I am punished for what is *my* crime under ordinary law, the final act will never take place. Advocacy of crime is itself criminal.

As my colleague quoted to you, the Harvard Law Review testifies: "It is a universal and well established doctrine . . . that no other act beside conspiracy is necessary for an indictable offense."

This law is not a radical departure from previous California law and where it does add it merely follows established legal principles.

But the gentleman says this law is subject to abuses. What are these evils? First, he says, the erroneous admission of testimony, and second, the use of criminal witnesses.

It is plain at the outset that these evils are not evils in the law itself, but in the application of the law. It is not the fault of the law that some judge admits testimony that should not have been admitted. It is not the fault of the law that some district attorney calls shady witnesses. These things frequently happen under other laws. True they are evils, but they are evils in our judicial system and not to be eliminated by any such simple remedy as the gentlemen propose.

They would have us believe that all of the one hundred and six convictions have been solely on the testimony of these three offensive witnesses: Coutts, Dymond and Townsend. I happen to have before me three transcripts of trials of three of the most important cases under this law, those of Whitney, Lewis, and Taylor. In the first, the testimony covers about six hundred pages of which sixty are devoted to these three men. In the next the proportion is twenty-five to five hundred ninety, and in the third there is not a page of the testimony that my opponent objects to. As a matter of fact these men, whom the opposition have described as criminal, are very typical of the I. W.W. But even at that, their place has been relatively unimportant.

These are the evils of the law.

Now, the gentlemen have had much to say about the poor innocent people that have been convicted of criminal syndicalism. They speak of these men with as much equanimity as if I should say they jailed poor Roy Gardner when all he did was rob a mail train. They say these men have committed no crime, have done nothing, are harmless. These are the same men, mind you, that the wardens of our state penitentiaries find to be: "The most dangerous type of prisoners we have to deal with. They exhibit a total contempt for prison rules and regulations."

Ladies and Gentlemen, this law has removed dangerous people from the community. It has operated to deter crime. It is not a radical departure from previous California law. It does not suppress opinion, it punishes crime.

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CHAPTER III

UNEMPLOYMENT INSURANCE

LAWRENCE COLLEGE

RESOLVED: *That Congress should enact a law embodying the essential provisions of the Huber Unemployment Bill, constitutionality conceded.*

These were the speeches delivered by representatives of Lawrence College, Appleton, Wis., in the Mid-Western College debates, 1923-1924. The debates were held March 14, 1924. The Affirmative team for Lawrence College met the Negative team of Albion College, Albion, Michigan, at Appleton, Wis. The Negative team for Lawrence met the representatives of Illinois Wesleyan at Bloomington, Ill. On both occasions the decision was two to one in favor of the Negative. Copies of the speeches were secured for this volume thru the courtesy of Mr. George Skewes, Secretary of the Executive Committee, Lawrence College Interscholastic Speaking Contest, Appleton, Wis.

BRIEF

UNEMPLOYMENT INSURANCE

AFFIRMATIVE

INTRODUCTION:

A. The Huber Unemployment Bill which it is proposed to enact into law, provides
   1. Any employer, employing six or more persons shall be required to contribute to an unemployment insurance fund, a premium proportional to the unemployment caused by lay-offs in his establishment.
   2. Out of this fund, the workers laid-off, to whom the bill applies, shall be given compensation, so long as they can show evidence of inability to secure work, for a period not to exceed thirteen weeks in any one year.

B. The application of the insurance principle to the unemployment problem is not a recent development.
   1. It originated and was applied in Switzerland nearly thirty years ago.
   2. Since then various other countries have followed suit.
   3. Twelve states in the United States have had or now have this step under consideration.
   4. Various plans have been put into operation by our more enlightened industrial leaders.

C. The purpose of the Huber Unemployment Bill is not to give relief but to prevent unemployment.
   1. In this respect it differs from all European plans for unemployment insurance and corrects the serious errors embodied in these plans.
   2. It aims to prevent that most serious unemployment resulting from causes that industry can control.

I. The greater part of unemployment and the most serious unemployment is due to causes which industry can control.
   A. Thru more efficient management within the factory walls.
      1. Workers are hired and discharged by one department after another when they might have been transferred.
         a. This can often be avoided by better management and better cooperation between departments.
      2. Repairs, alterations and extensions are often undertaken during the busy season, and the extra force necessary discharged, along with some of the regular workers, when the slack season comes.
         a. Repairs can be alternated for different departments or held to occupy the regular force during the slack season.
      3. That employment can be stabilized in this way has been satisfactorily demonstrated by many enlightened employers.
   B. By controlling over-production, over-expansion and over-extension of credit.
      1. Much unemployment is due to failures or necessary reduction of production during the periods of depression which it has been customary to consider as an inevitable part of the "business cycle."
         a. By the term "business cycle" is meant the upward movement toward a boom followed by a downward movement toward a depression.
      2. It is now the opinion that the influences which cause the business cycle are conditions within business which can be controlled by business itself.
         a. By preventing over-expansion and over-extension of credit during the boom period, much of the danger of a following period of depression can be obviated.

II. The Huber Unemployment Bill will provide the incentive necessary to induce industry to remove these causes and so prevent resulting unemployment.
   A. By placing a penalty on lay-offs it makes the result-

ing unemployment a definite and visible item in the cost of production.

1. The entire cost of the plan is placed upon industry.
2. The amount of premium levied on each employer is in direct proportion to the amount of unemployment caused by his business.

B. Competition prevents the employer from passing this cost on to the buying public.

C. The prevention of unemployment resulting from business depression is made doubly certain by requiring the cooperation of all banks.

1. Under the Huber bill, all industry and all banks would be liable to a definite penalty on unsound expansion, payable at a time when industry would be least able to meet its obligations.

III. The Huber Unemployment Bill will accomplish the relief from unemployment which the English system has not been able to give.

A. The English plan was conceived of as a relief measure.

1. It has drained the public treasury without actually reducing employment.
2. Industry has only carried part of this burden of relief.
3. It has born equally heavily on all employers regardless of the extent to which they have contributed to the amount of unemployment.

B. The Huber bill is a preventive rather than a relief measure.

1. It puts direct pressure on each employer to reduce unemployment by penalizing him in proportion to the amount of unemployment for which he is responsible.

IV. The argument that the Huber unemployment plan will be too expensive to operate is not sound.

A. The cost of its operation should be no more considered than it is in the administration of other labor welfare laws.

B. The cost is insignificant compared to

1. The yearly sum spent for luxuries by the American people.
2. The annual cost of unemployment.

V. It is necessary that the Huber unemployment insurance plan be applied nationally.

A. The unemployment problem is of such a nature as to demand the national application of whatever remedy is applied.

B. To wait for all the states to adopt such a measure would be to delay this reform for many years.

NEGATIVE

I. The Huber Unemployment Insurance Bill is entirely inadequate as a remedy for unemployment.

A. The field within which it would operate, even if successful within that field, is entirely too limited for it to materially affect the unemployment problem.

1. It excludes all unemployment resulting from causes other than lay-offs.

a. According to reliable statistics, only about 11 per cent of separations from employment are lay-offs.

2. This limited field, represented by 11 per cent of separations, is further restricted by a series of definite exemptions.

a. It makes no provision for natural catastrophes which create the worse kind of unemployment.

b. It does not apply to lay-offs of Federal, state, county and municipal employees, or of farm and land workers.

c. It does not apply to workmen receiving more than $1500 a year.

d. It exempts lay-offs in seasonal industries after the close of their usual period of operation.

3. The remaining lay-offs to which the bill really does apply are primarily the result of causes over which the employer has no control.

a. Conditions that affect international trade, wars, panics, credit disruptions in Europe, tariff, im-

migration, are factors responsible for a large per cent of the remaining lay-offs to which the Huber bill will apply.

b. These causes are entirely uncontrollable by the employer.

B. The Huber Unemployment Bill will not function as a preventive measure, even within its field of operation.

1. The added liability on the employer for 11 per cent of his labor turnover will have but little effect on the entire unemployment problem.

a. The present cost of labor turnover is more than sufficient to induce the employer to do all that he can to reduce that part of unemployment which he can control.

b. Competition forces the employer to stabilize the labor side of production.

C. It will have little influence toward making the banker adopt a conservative policy with regard to the extension of credit.

1. It would be too small in comparison with an industry's total resources to have any effect on that industry's ability to borrow.

2. The policies of banks are determined by human beings who, often, themselves prefer to ride with the boom rather than maintain a conservative policy in boom periods.

II. There is almost unanimous opposition to this bill.

A. Employers are fighting it everywhere.

B. The government, as represented by the President's Unemployment Conference, did not favor the plan.

1. The Conference considered the plan but did not include it among its recommendations.

C. The American Federation of Labor has unanimously voted down any proposition for compulsory unemployment insurance for the past twelve years.

1. They want work for the unemployed—not relief.

III. Better methods can be found for solving the unemployment problem than the Huber plan.

A. The unemployment principle can only be applied successfully by experimental evolutional process.
   1. Great economic problems cannot be solved in our complex economic order by forcing on the people, simultaneously, in every state, an arbitrary, theoretical and unwelcome plan.

B. The situation can only be remedied by the employer thru voluntary action.
   1. That action can be secured thru a policy that would not arouse the employer's opposition as does the Huber bill.

C. As a better plan the Negative propose that
   1. A national employment service be created by the Federal government.
      a. Offices should be established in the big industrial centers of the Nation where information as to the supply of and demand for labor could be obtained.
   2. The tariff be taken out of politics and placed in the hands of a commission of economic experts.
      a. This commission should have the power to adjust the rates in accordance with the needs of industry and the welfare of labor.
   3. There should be a carefully planned immigration policy which should be flexible and adjustable to the needs of the country.
   4. Public works should be reserved by the government for periods of depression.
      a. This would not only provide work for the laborers in times of depression but would help to hasten the return of prosperity by increasing production demands.
   5. The government should adopt a direct policy of controlling credit expansion, thru its control of the Federal Reserve System.

D. This program is based on past experience in industrial progress and will have the support of industry.
   1. Employers are already awake to the seriousness of the problem and are endeavoring to meet it so far as they can.

UNEMPLOYMENT INSURANCE

LAWRENCE COLLEGE

AFFIRMATIVE SPEECHES IN DEBATE AGAINST ALBION COLLEGE

FIRST AFFIRMATIVE

Harry P. Hoeffel, Lawrence

LADIES AND GENTLEMEN: The three great fears, sickness, old-age, and unemployment, still haunt the lives of American workers. We are concerned to-night with the greatest of these three, unemployment. The proposition under discussion is: Resolved: That Congress enact a law embodying the essential features of the Huber Unemployment Insurance Bill, constitutionality conceded. This bill is an attempt to reduce the army of unemployed, numbering on the average one and one-half million men and, during the depressions, as many as six million.

The Huber bill briefly provides that all employers employing six or more persons insure their employees against unemployment resulting from lay-offs. It provides that each individual employer shall pay into an insurance company a premium proportionate to the unemployment resulting from his lay-offs. Employers are to be classified on the basis of the unemployment caused and the premium levied accordingly. Out of the fund thus created, the laid-off workers to which the bill applies are to be paid a compensation so long as they can show evidence of inability to secure work, for a period not to exceed thirteen weeks in any one year.

The application of the insurance principle to the unemployment problem was originated and applied in Switzerland nearly thirty years ago. Since then various countries, including several of the European nations, have followed suit. England's plan applies to twelve million of her industrial workers. Twelve of our own states have had or now have this step under considera-

tion, and various plans have already been put into operation by some of our more enlightened industrial leaders.

While there is some dispute over the success or failure of these various plans, we must agree that they have served the great purpose of providing experience by which America may be guided, and in formulating the Huber bill, John R. Commons had before him a knowledge of the defects and virtues of the plans operating during the past thirty years.

The purpose of the Huber bill, as clearly stated by its author, is not to give relief but to prevent unemployment. It is here that it differs fundamentally from all European plans and corrects the serious error these plans embody. It does not claim, however, to prevent all unemployment. It is not a cure-all. It is not concerned with the unemployment resulting from too many immigrants or the wrong kind of a tariff. As advocates of this bill, we welcome any supplementary measures aiming at these or other causes not within the scope of the bill. This bill is advanced as a remedy, not for all unemployment, but for that most serious unemployment resulting from causes which we shall show that industry can control. It is a definite remedy for definite causes and any attack upon it as a cure-all is entirely unwarranted. Furthermore, it was never intended as a relief measure, and therefore, any attack against it on that basis is likewise unwarranted.

The essential features of the bill must naturally be those upon which depend vitally the accomplishment of its purpose. The provisions which especially characterize it and are essential to the accomplishment of its definite purpose are: first, that the compensation paid shall be determined, not by the need for relief, but by its preventive effect. In support of this contention, we have a personal letter from Senator Huber, himself, in which he says that the amount of compensation could be changed if experience demonstrated that it was either too high or too low to function as the necessary preventive. Second, that the premium paid by each employer shall be proportionate to the amount of preventable unemployment caused by his industry. Third, that the entire cost is placed directly upon the employer. The bill implies the establishment of employment bureaus which would aid in its administration and guard against the possible tendency toward voluntary idleness. We shall show how these provisions are vital to and actually will accomplish

the bill's purpose, that of very materially reducing our most serious and widespread unemployment resulting from the causes which industry can control. Now, if the Negative wish to attack any other provisions of this bill, we ask them, before they make their attack, to establish the essential nature of these provisions by showing how they are vital to the accomplishment of the bill's primary purpose, and we again ask them to bear in mind that its purpose is not relief and that its purpose is not to function as a cure-all, but to prevent that most serious unemployment resulting from causes which we will show industry can control.

For the purpose of this discussion, we shall divide these causes into two groups: first, those causes which industry can eliminate through more efficient management within the factory walls, and second, those causes which industry can eliminate through a more conservative expansion policy during the high tide of prosperity. The Huber bill aims directly at eliminating these definite causes of unemployment, and the Affirmative claims that these causes are controllable by industry and responsible for our most serious and widespread unemployment. In support of these contentions, we have the very best authority in America, leading members of the President's Unemployment Conference. But before we go to these authorities, let us consider the first group of causes. Observe first of all what industry can do within its factory walls to stabilize employment. Modern industry is operated on the department plan, each department with its superintendent, more or less independent of the others. It is not uncommon for one department to hire a group of men for special work, lay them off, and a few days later another department calls for a similar group. A knowledge of each other's needs would have prevented the first group of lay-offs. It is not uncommon for several departments to undertake repair work, alteration work, or extension work at about the same time and later lay off the entire added working force. Planning and cooperation between the departments might have kept a steady force employed the year round. We are told that it is not uncommon for repair or alteration work to be undertaken during the busy season and this added force laid off during the dull season along with some of the regular force that could not be kept busy. With planning, the regular force might have been kept employed during the dull season, on that very

repair work. And so I might go on to enumerate the measures which some few enlightened employers have begun to employ, but which others have not yet begun to consider, either because they have no appreciation of the cost of labor-turnover or else because they did not have sufficient incentive. A comparison between the average turnover in industry and that in establishments which have applied themselves to this problem shows what industry can do along these lines if it but would. The average turnover for American industry is over 100 per cent. Some enlightened employers have reduced it to less than one-half of that. Bulletin 310 of the United States Bureau of Labor Statistics shows that labor turnover in some industries is as high as 200 and 300 per cent, while others have reduced it to as low as 20 or 30 per cent. Some of the employers who have demonstrated that employment can be stabilized through more efficient management are: United States Radiator Co., Swift and Co., Dutchess Bleacheries, Redfield Steel Works, Dennison Manufacturing Co., Proctor and Gamble Co., Deering-Milliken Co., and the National Cash Register Co. Note that each of these represents a different industry in which this problem has been solved through more efficient management.

I read, for instance, from a personal letter from Mr. Proctor of the Proctor and Gamble Co., manufacturers of ivory soap, in which he says, "I believe that in most industries through better control and direction of the management much the larger portion of unemployment could be avoided." And he goes on to explain how they have solved their unemployment problem through more efficient factory management, and why he believes that most other industries can do likewise. Mr. Proctor was a member of the President's Conference on Unemployment. I quote also from a personal letter from M. VanKleak of the Russell Sage Foundation, who was not only a member of the special committee to study prevention measures, but also was a member of the President's Unemployment Conference, who says that it was the belief of the Committee on the Business Cycle that the hopeful method of approach to the unemployment problem was through better management and more conservative expansion policies. It is evident, then, that industry can, through more efficient management eliminate a great deal of our normal unemployment.

The essential features of the Huber bill will so function as to cause all employers to follow the example of these few enlightened leaders in eliminating this cause of unemployment. By placing a premium to be determined by its preventive effect on lay-offs, the Huber bill makes lay-offs a definite and visible item in the cost of production. It is very evident that any definite cash penalty placed on a lay-off that the employer is able to prevent will act as an incentive to the employer to prevent that lay-off. The entire cost of the plan is placed upon industry so that the amount paid the lay-off worker may not be so high as to induce idleness, yet be high enough in the estimate of the employer to function toward its intended end. The compensation paid the laid-off worker comes out of a fund created and maintained through the premium which industry pays. The amount of the premium, levied on each employer, is proportionate to the unemployment caused, by that industry's lay-offs. The less the unemployment caused, the less the premium. We see how this plan, by placing the penalty on lay-offs, makes that resulting unemployment a definite and visible item in the cost of production. In other words, the Huber bill says to the employer, "There is a penalty on the unemployment resulting from inefficient management within the walls of your factory. Reduce that unemployment through more efficient management as many have already done, and the penalty will be reduced accordingly." And the employer cannot reply, "Well I'll just pass that cost on to the buying public," for the Huber bill says further, "Your competitor is already on the job, his penalty is already less than yours because his lay-offs are already fewer, and unless you, too, get busy, his production costs may become materially lower and your customers may become his." This plan will be effective, then, not only because it makes that unemployment which I have shown industry can prevent, a definite and visible item in the cost of production, but further because in making the penalty proportionate to the unemployment caused, it subjects the entire problem directly to the effective, relentless forces of competition. In this manner sufficient incentive will be supplied for industry generally to follow the example of the few employers who have demonstrated that a very material stabilization of employment is possible through more efficient management within the factory walls.

The plan, then, is in direct harmony with an established principle in industrial reform legislation. Professor F. J. Hass, head of the sociology department of Marquette University, after reviewing the history of industrial reform legislation, in his article in the January number of the Catholic Charities Review, says that unless employers are legally compelled to assume certain costs as first costs, they will not make special efforts to remove the evils which are represented by such costs. That it has been found in the past that unless certain industrial evils are translated into cash value and the level of competition forced up to this point, the evils continue to be considered as part of the system and go uncorrected. And he goes on to explain that when law places a cost on these evils, the employer will begin to seek out the causes of these costs and as far as possible remove them. I also read from the Health Commission of Pennsylvania which likewise after a review of industrial legislation, arrives at this conclusion, "Unemployment insurance, if the cost falls first upon the employer, would rapidly stimulate a rational continuous effort by the employer to regularize industry and would tend to place unemployment at a minimum."

Therefore, because the study of industrial management and the examples of what a few employers have accomplished, show that industry can materially reduce unemployment through more efficient management because; facts and comparative figures show that industry is not now eliminating that preventable unemployment, evidently because they do not have sufficient incentive and because the essential features of the Huber bill provide that needed incentive in the most effective manner possible, we of the Affirmative maintain that these essential features should be enacted into Federal legislation.

SECOND AFFIRMATIVE

Winfred W. Bird, Lawrence

The Negative would have you believe that there is no need for an unemployment prevention plan, that our unemployment problem is not a serious problem. If this is so, we would like to ask the gentlemen of the Negative why President Harding called the Unemployment Conference. As further proof of this need, we find on page 31 of the book, "Employment Hours

and Earnings," published by the National Bureau of Economic Research, that there were three million, three hundred thousand men laid off in the first three months of 1920. This vast number of unemployed constitute a portion of that greater number of unemployed which the Huber bill will prevent as we shall later prove.

The Negative have quoted figures on separations in a feeble attempt to disprove the seriousness of lay-offs as a cause of unemployment, but we of the Affirmative want it clearly understood that the figures on separations are no indication of the resulting unemployment. A man who quits his job when work is plentiful and takes another job two days later is counted under separations. So is the man who is laid off during the depression and remains unemployed for six months. It is clear, then, that twenty-five or even fifty separations, classified under quits may not cause as much unemployment as one separation, classified under lay-offs.

The first Affirmative speaker explained to you that we are not concerned with a cure-all, but with a remedy for that unemployment resulting from causes which industry can control. He divided these causes into two groups, those that have to do with inefficient factory management, and those that have to do with the over-expansion policy of industry. He proved that the Huber plan, in making that preventable unemployment a definite visible factor in production cost and subjecting it to the force of competition, will materially reduce the unemployment resulting from the first group of causes.

I will show that the Huber plan will also reduce the even more serious unemployment resulting from the second group of controllable causes, over-expansion, over-production, and over-extension of credit.

The theory of the business cycle as the cause of our most serious unemployment was first advanced by Robert Malthus in a debate with Ricardo more than a hundred years ago. The term "business cycle" is used to describe changes in business conditions which are characterized by an upward movement toward a boom, followed by a downward movement into a depression. A review of the important features of these movements will reveal their significance to the problem under discussion. Starting with the revival period, we find drastic reduction in the cost of doing business, narrow margins of profits,

liberal bank reserves, and conservative credit policies. The basis is being laid for the upward movement. Soon we find signs of revival. Industry takes on men, their increased buying power creates demand for more goods and industry takes on more men. This process repeats, and so we move into the period of prosperity. With the boom period, prices rise, profits swell, industry over-expands and over-produces. The basis is being laid for the inevitable crash. With the over-extension of credits and over-expansion and over-production of industry, we pass into the second major movement of this vicious cycle, the movement into the depression. The retailer, pressed for funds and over-stocked with goods, cancels orders. Production is curtailed everywhere and men are laid off. Their reduced buying power further reduces production and more men are laid off. Some concerns fail, many are closed down. They all reduce their working force for we have passed into the depression and with it there comes that widespread and serious unemployment which lasts for a period of from one to two years. The Huber plan aims directly at preventing this most serious unemployment, and surely no one can claim that it ignores fundamental causes, for while our average unemployment numbers about a million and a half men, during the depression periods the number is increased to from five to six million.

In the light of these facts, we are forced to recognize the true significance of over-expansion as a cause of unemployment. I say over-expansion because authorities are agreed, as my analysis of the business cycle has revealed, that over-extension of credit and over-expansion are the fatal errors within that cycle which make inevitable the depression with its widespread unemployment. As further evidence on this point, I will quote from the January Bulletin of the National City Bank of New York, "No business crisis has ever occurred unless preceded by a marked expansion of credit, and none need be looked for until such an expansion has occurred."

Over-expansion as the cause of our most serious unemployment is an evil that industry can control. The special committee appointed by the President's Conference to study unemployment and business cycles reported as follows: "The general opinion is that the influences which cause the business cycle are conditions within business and that the most productive results in controlling it are likely to be obtained from a consideration of business itself."

As further evidence, we are able to read from personal letters from the leading members of the President's Conference on Unemployment to the effect that industry, through more efficient management and more conservative expansion policies, can prevent the major share of unemployment.

Surely the government cannot undertake to tell the individual employer just when he may or may not build another plant, or how much he may produce. But the government can and should say and through the Huber plan would say to the individual employer. "If you do build another plant, we want you to be reasonably sure that you can operate that plant when the boom is over and not lay off your men." The government would say, "There will be no penalty on sound expansion, but upon that unwise and undesirable expansion which causes the depression and brings with it the evils of widespread unemployment. It is for you, Mr. Employer, to decide whether your expansion is sound or unwise. If it is sound, proceed, and no added obligation will be placed upon you. But unless you are reasonably sure that it is sound, and that it would not result in extensive lay-offs, we ask you to check that policy, and unless you do, you will find yourself facing an added obligation for every man laid off, which must be paid at the very time when you will find it difficult to meet even your ordinary obligations."

In tracing the steps of the business cycle, I have shown how unable industry is to assume an additional burden at this critical time. Industry will have no choice but to take the necessary precautions to avert the coming of that critical time. What remedy could there be which, while leaving the individual employer free to decide when he can expand with safety and security, could so effectively check that unwise and reckless expansion directly responsible for our most serious and widespread unemployment? Here again the penalty would be in proportion to the unemployment caused. What policy could be fairer to industry and yet, at the same time, remedy so effectively this great evil which only industry can remedy?

But the prevention of that unemployment coming with the depression is made doubly certain with still another check upon over-expansion. This double check operates through the credit system. Professor Moulton, formerly of Chicago University and now chief of the Federal Economic Research Bureau, says in his book, "The Financial Organization of Society;" "By virtue of their control of the purse strings, the managers of the

commercial banks are in a position to exercise a restraining influence, to control in fact, the rate of business expansion and to prevent a continuance of the upward swing to the stage of acute crisis which ends in financial collapse."

The borrowing power of industry is dependent upon its liabilities. With the Huber plan in operation, the banker will naturally ask of his prospective borrower, "With this added liability which you will have to pay, not during the boom, but during the slump, would you be able to meet your obligations when the depression came?" Naturally, unless the employer can convince the banker of the soundness of his expansion program and of his ability to carry this added liability, the credit will be refused and over-expansion checked.

Because of the competitive nature of the banking business, it is evident that the individual banker or even groups of bankers cannot materially help in solving this problem. Professor Moulton in his book says, "Though the managers of fifty or of a hundred banks may be of the opinion that the extension of credit has gone too far, they have no power to accomplish any substantial results. They could restrict the grant of credits by their own banks and so lose profitable business to other banks, but they could not materially improve the general condition."

It requires the cooperation of all banks, and under the national application of the Huber bill, all industry and all banks would be under exactly the same effective and restraining influence; a definite penalty on unsound expansion, payable at the time when industry would be least able to meet its obligations. The Huber plan thus makes possible and forces a more conservative credit policy, and through this double check, restrains the reckless employer who would not already be deterred from over-expansion directly through the penalty upon the preventable unemployment which he causes.

The Affirmative has thus far shown that industry and industry alone can eliminate that widespread and serious unemployment resulting from inefficient factory management and from over-expansion. We showed how the Huber plan, by making all lay-offs a definite and visible item in the cost of production, will provide the necessary incentive to industry to materially reduce unemployment through more efficient factory management. We showed, further, how the bill directly through

its effect upon the employer and indirectly through its restraining influence upon the bankers will effectively check over-expansion and thus remove the cause of that extensive and most serious unemployment which comes with every depression. For these reasons, we maintain that the essential provisions of the Huber bill should be enacted into Federal legislation.

THIRD AFFIRMATIVE

Willard F. Henoch, Lawrence

The speaker who just left the floor has spent altogether too much of his time arguing against the Huber plan as a relief measure. In attacking the Huber plan on the grounds that it is a plan to give a dole to the worker, the Negative forget that the bill is primarily a preventive measure for unemployment and not a relief measure. In making this argument, the Negative is attacking the Huber plan in terms of former plans of unemployment insurance which were primarily relief measures and did give doles to the workers. The Huber plan corrects this serious error of these former plans of unemployment insurance and regulates the amount paid the laid-off worker by its preventive effect on industry. The money paid the worker is not an end in itself, but is a means to an end—that of inducing industry to reduce all controllable unemployment, and we have shown you just how it will function effectively to that end.

You have witnessed a remarkable juggling stunt when the first two Negative gentlemen argued that the Huber plan was only 11 per cent efficient because lay-offs comprise only 11 per cent of the total number of separations. Now we have already shown specifically why figures on separations in no way indicate the resulting unemployment. We do not wish to question the figures the Negative have introduced. In fact, we gladly take them over. The Huber bill applies to only 11 per cent of all separations, but to all lay-offs, and we have shown that these lay-offs really make our unemployment problem so serious as during the recent depression when three million four hundred thousand men were laid off during the first three months of 1921. We have quoted from government Bulletin No. 310 to show that every industrial worker in the United States is laid

off twenty-six days every year. Our most serious unemployment is due to lay-offs resulting from inefficient factory management and over-expansion, and we have shown how the Huber plan strikes at and effectively removes these causes.

The Affirmative have thus far proved: first, that the greater part of unemployment and the most serious unemployment is due to causes which industry can control, and second, that the Huber plan will provide the necessary incentive for industry to remedy those causes and prevent the resulting unemployment.

I will further establish the effectiveness of the Huber plan as a preventive measure, through a comparison with the English system of unemployment insurance. We are not basing any argument on the success of the English law, but we are basing an argument on the reasons why the English plan did not prevent unemployment. The English plan was conceived as a relief measure; as such it has given relief and drained the public treasury. With relief in mind, the burden of providing that relief is divided, industry carries only a part of it, and the part carried by the individual employer is not in proportion to the unemployment he causes. The cost bears with exactly the same pressure on every employer, and it is thus not a factor in competition. The individual employer, through better management, cannot escape or materially reduce the cost. The individual employer, through sound expansion, cannot escape or materially reduce it; the cost is based on the number of men he has employed, not on the number he causes to be unemployed. In fact, as he lays off men and causes unemployment, his penalty becomes lighter instead of heavier. Where, under such a scheme, is there an incentive to reduce unemployment? John R. Commons says, "The defects and failures of the English system resolve themselves into this, it places the responsibility upon the wage earners and the state instead of solely upon the employer." For these evident reasons, the English plan has failed to reduce unemployment.

The Huber plan aims not at relief, but at prevention and corrects these serious defects in the British scheme. In other words, the Huber plan does exactly what the English plan does not do, and corrects those features of the British plan which prevent it from reducing unemployment. It places the entire burden upon industry, that burden to be determined by its preventive effect. The cost to the individual employer would be in

direct proportion to the preventable unemployment caused by him. The penalty is thus made a definite, visible, and reducible item in the cost of production. The individual employer can escape or reduce the penalty through more efficient factory management and adherence to a sound expansion policy.

The evidence thus becomes conclusive that the Huber plan is an effective remedy for our most serious and widespread unemployment.

Now the Negative have argued that the cost of administering this plan would be too great. It is, of course, impossible to determine with any degree of accuracy even the approximate cost, but we fail to see any reason why the cost involved should be given any greater consideration than is given it in the administration of our factory inspection laws, our child labor laws, workmen's compensation laws, or any other industrial legislation which applies to all industries. We claim, in the first place, that the nation which spent twenty-two billions for luxuries in 1921 can well afford an unemployment prevention plan such as we propose. But the cost, whatever it may be, would indeed be insignificant in comparison with what unemployment now costs our country. Herbert Hoover, chief of the National Committee on Waste in Industry, named unemployment as "the greatest cause of waste in industry." Royal Meeker, head of the United States Commission of Labor Statistics for eight years, says, "The cost of this most costly and destructive of all industrial hazards, unemployment, is appalling. Its money cost, reckoned in terms of products unproduced, services unrendered, and capital goods lost, I estimate would amount to more than half the value of the yearly product of all our industries. This means that we are losing by not producing, something like $35,000,000,000 a year." Surely any cost that may be necessary to establish a Federal commission with a national system of employment agencies to administer a plan which, as we have shown, will stabilize industry and reduce this tremendous loss is justifiable.

Contrary to our expectations, the Negative have argued against national application of any remedy. We claim that the unemployment problem, unlike the minimum wage, child labor, accident compensation, and other industrial problems, is of such a nature as to demand the national application of whatever

remedy is to be applied. It is very evident that any one state can solve its minimum wage problem, can prevent child labor within its borders, or place a penalty on industrial accidents within its borders, but it is equally evident that no one state can effectively solve its unemployment problem. How could Milwaukee or any other south Wisconsin city solve its unemployment problem as long as Chicago does not do likewise. Or how could New Jersey solve her problem, as long as New York did not take the same steps? There is nothing to prevent the unemployed in one state from migrating across the border to where the situation might be less acute. It is evident that unemployment is essentially a national problem which must be solved on a national basis. Furthermore, our experience with past reform legislation shows that if we are to wait for all states to take this step individually, we shall have to wait at least thirty to fifty years.

After more than half a century of struggle, we know that thousands of our industrial workers are working eleven to thirteen hours today. We need a national standard working day. We know that thousands of children are still wilting away in factories and cotton mills today. We need a Federal child labor law. Many states have laws which remedy these conditions, and the justice and wisdom of them is generally accepted, but the fact remains that we shall probably never secure the desired results except through Federal legislation. Justice to the worker, who is least to blame and suffers most, demands that this problem be relieved now and not fifty years hence.

The seriousness of the unemployment problem has become very evident throughout this debate. The urgent need for a remedy must be admitted. We are concerned tonight primarily with those causes which we have shown you are responsible for our most serious and widespread unemployment; namely, inefficient factory management and over-expansion. We have shown that these causes can be reached only through industry and that the Huber plan would reach them directly and effectively.

We challenge the Negative to show, not merely suggest, how these causes which must be reached can be reached through any other agency more effectively than they can through industry. How would they strike at that group of causes operating entirely within the factory walls more effectively than does the Huber

plan in making the unemployment resulting from that group of causes a visible and reducible item in the cost of production? How would they check over-expansion, that unmistakable cause of our most serious unemployment, more effectively than does the Huber plan in placing a penalty on the unemployment resulting from over-expansion and in making that penalty proportionate to the amount of unemployment caused, and payable when industry is least able to pay? How would they check over-extension of credit and thus further guard against the evils of depressions more effectively than does the Huber plan in directly limiting industry's borrowing capacity for unsound expansion purposes?

Because, as we have shown you, the seriousness of the unemployment problem demands that these definite results be accomplished, and because, as we have shown you, the Huber plan will accomplish these results in the most effective manner possible, we contend that the essential features of the bill should be enacted into Federal legislation.

FIRST AFFIRMATIVE REBUTTAL

Winfred W. Bird, Lawrence

Honorable Judges: The Negative condemn the Huber plan on the grounds that the field in which the bill operates is limited to a small percentage of the causes of unemployment. They base their argument on certain statistics which show that lay-offs constitute only a small part of separations from the job. Although their statistics show that lay-offs constitute only 11 per cent of all separations from the job, yet this is no indication of the unemployment resulting from lay-offs. Quits and discharges may constitute 89 per cent of separations, but this certainly does not mean that they constitute 89 per cent of unemployment or anything like it. A man quits a job when he knows that he can find another and is unemployed only for the time it takes to go from one job to another. Quits are counted as separations from the job. Lay-offs are also counted as separations from the job, but when a man is laid off, he is often unemployed for from three to six months. Hence we see that twenty-five or fifty quits may not constitute as much real unemployment as one lay-off. Therefore, the Affirmative cannot

accept the statistics of the Negative on separations as any indication of unemployment.

As further evidence that lay-offs result in the most widespread and serious unemployment, we quote from Dr. E. S. Bradford, member of the President's Unemployment Conference. (Catholic Charities Review, January, 1924.) "Industrial wage earners lose on the average 10 per cent of their working time mainly on account of lack of work, 2 per cent on account of sickness and 1 per cent through strikes and lockouts."

On page 31 of the book "Employment Hours and Earnings" published by the National Bureau of Economic Research, we read that in the first three months of 1920, 3,300,000 men were *laid off* out of 4,100,000 who were removed from the pay-rolls.

This is the serious unemployment with which the Huber plan is directly concerned, and we have shown you will effectively prevent.

The Negative argue that the Huber plan will not check over-expansion of industry. The question comes to me, "Why do we have over-expansion today?" In answering this question, I would refer you to the Negative's own contention, that the banker plays a very important part in checking over-expansion. This is very true, but as Professor Moulton says, "One banker or even groups of bankers cannot materially help in solving this problem." It requires the cooperation of all industry and of all banks. This is exactly what the Huber bill provides. By placing the responsibility directly upon the employer and indirectly upon the banker, the aim of the bill will be realized, to check over-expansion and thus prevent our most serious and widespread unemployment.

The Negative claim that the Huber plan does not get at fundamentals, ignores causes, does not proceed by the proper methods, etc.

I wish to reply that the Huber plan of approach to the unemployment problem is in reality backed by the very best authority there is in this country. The President's Conference selected from its number a special committee for the purpose of studying future unemployment prevention plans. This committee did not outline any definite plan of action, but it did outline a general approach to the problem. Listen to the five recommendations as reported in "Business Cycles and Unemployments:"

1. Control by business men of the expansion of their own industries.
2. Control of credit expansion by banks.
3. Unemployment reserve funds.
4. Federal employment bureaus.

These four recommendations, control of expansion, control of credit, unemployment reserve funds, and employment bureaus are exactly what we have shown you the Huber plan would accomplish, so it appears that this authoritative committee based its recommendations directly upon their study of the Huber plan.

The fifth recommendation includes relief measures such as public works, control of private construction, etc. to provide for the irreducible minimum of unemployment which we grant may be necessary as relief supplements to the preventive remedy which we propose.

On the strength of these committee recommendations, we again claim that the Huber bill is based upon fundamentals and does not approach the unemployment problem from the proper angle.

SECOND AFFIRMATIVE REBUTTAL

Harry P. Hoeffel, Lawrence

Ladies and Gentlemen: The Negative still contend that unemployment in this country is not a serious problem and that, hence, the Huber bill is unnecessary. I am going to quote a few statistics from the United States Bulletin on Labor Statistics, No. 310, and let you judge for yourselves whether or not our unemployment problem needs a remedy. This government bulletin shows that every industrial worker in the the United States loses annually twenty-six working days *because of lack of work;* that there are unemployed in America on the average one and a half million men exclusive of sickness, strikes, discharges, etc.; that unemployment cost the United States annually over $35,000,000,000, and that three million, three hundred thousand men were laid off out of the four million, one hundred thousand who were removed from the pay-roll in the first three months of 1920. In the face of these reliable government figures, we are unable to see how the Negative gentlemen can get up and tell you that our unemployment problem is not serious and does

not need a remedy. We have shown conclusively how the Huber bill will prevent our most serious unemployment, and we of the Affirmative believe that any plan which will effectively prevent this unemployment is justifiable as a national law.

The Negative have made the startling statement that the Huber bill applies to but 11 per cent of our unemployment problem. When we examine the proof which they offer, however, we become less startled. They quote certain government statistics which show that only 11 per cent of separations from the job are lay-offs. The Huber bill applies to lay-offs. They immediately jump to the conclusion that the Huber bill, therefore, applies to but 11 per cent of our unemployment problem. We have already shown that figures on separations are no indication of the resulting unemployment. We have quoted reliable government statistics which show that this 11 per cent separations; namely, lay-offs, cause most serious and widespread unemployment and that the Huber bill, in striking at lay-offs, does strike at our most serious unemployment. It is evident that the contention of the Negative is entirely unbased.

And now I wish to settle the most basic argument in this discussion, whether or not the Huber bill strikes at the basic causes of unemployment, and whether the approach through the employer is the proper approach to this problem. I have here some thirty personal letters from the leading members of the President's Unemployment Conference. Time does not permit me to read them in detail. I merely wish to point out that these authorities are agreed that employers can control the major portion of unemployment through more efficient factory management and more conservative expansion policies. I also wish to call your attention to the fact that not one of these authorities mentions tariffs, war, international trade, seasonal industries, etc. as serious causes of unemployment. I will leave these letters on the table for the inspection of the Negative gentlemen. These men and others we have already quoted are recognized by our Department of Commerce as leading authorities on the unemployment problem. We believe that this establishes our contention that the Huber bill is directly concerned with the major causes of unemployment and that in approaching these causes through the employer, it is pursuing the only course through which that serious resulting unemployment can be reached, and prevented.

This establishes the fact that the employer through better management and through more conservative expansion policies prevents the major share of unemployment, but the Negative still contend that this compulsory national law is unnecessary. They claim that industry now has sufficient incentive to do what it can. Apparently this seems logical, but the facts we have presented and the authorities we have quoted prove otherwise. We do not know exactly why employers must be forced by law in this case any more than we know why industry had to be forced by law to install safety devices, pay a minimum wage, or refuse to employ children. The history of reform legislation shows that the desired result cannot be expected until such a law, compulsory and nationally applied, is in operation. In further proof of this, I wish to quote from the American Labor Review of June, 1923, page 148, "While individual employers have frequently set a good example, the vast majority have waited upon some uniform measure of social compulsion to raise the standards of all employers in keeping with the general welfare. Already a number of American employers have pointed the way to the stabilization of business by successful establishment of unemployment reserve funds. *But it is only through legislation that enlightened industrial standards have been applied universally.*"

For this reason, and because the unemployment problem is essentially a national problem, and for other reasons we have outlined, we claim that we must have the national application of such a compulsory measure as we propose if the unemployment problem is ever to be solved.

THIRD AFFIRMATIVE REBUTTAL

Willard F. Henoch, Lawrence

The gentlemen from Albion have been strikingly inconsistent this evening. At the beginning of this debate, they argued that our unemployment problem was not so serious, and the need for a remedy was not very great. Now we answered these assertions with reliable government statistics taken from Bulletin 310, issued by the United States Bureau of Labor Statistics. No unemployment problem?—when we have shown that every industrial worker in the United States is unemployed

twenty-six days each year. And furthermore, we find that the President's Conference on Unemployment reported that this serious unemployment was due to definite causes which industry can control, and we have shown how the Huber plan will induce employers to reduce this serious unemployment.

We were glad to see the third Negative speaker converted to the seriousness of the problem and the urgent need for a remedy, for without first proving the ineffectiveness of the Huber bill, he proposed a substitute plan. The Negative would control the over-extension of credit through the Federal Reserve system. In other words, they would do nothing more to prevent unemployment than is now being done. Since its inception the Federal Reserve Board has tried to control the extension of credit, and the history of the recurring depressions we have experienced proves that this plan is ineffective. The truth of this argument was emphasized by Governor W. P. G. Harding of the Federal Reserve Board when he admitted "that the Federal Reserve System can neither produce nor neutralize economic forces." Thomas Adams, eminent Yale economist, in "Business Cycles and Unemployment," page 263, also points out that effective control of the credit system is impossible through the Federal Reserve Board.

Now we have shown how the Huber plan will place the necessary check on the credit system which will effectively prevent over-expansion and its resultant unemployment.

Now the entire Negative case this evening has been an attempt to overwhelm us with a bombardment of objections which have evaded the fundamental issues of this debate. Most of their objections have already been answered, but I shall again reply in brief to as many as there is time for.

They would have you believe that the Huber plan is universally opposed. In the first place, what does labor think of the Huber plan? Regardless of what Samuel Gompers thinks of the Huber plan or what the American Federation of Labor thought of unemployment insurance in general when they considered England's charity relief scheme as a model, let us remember that organized labor comprises less than 10 per cent of the total wage earners of the United States and the American Federation of Labor is an organization of skilled workers while our most widespread unemployment, according to government figures, is made up of unskilled workers which especially need the protection provided by the Huber bill.

We believe that far more significant as an accurate indication of labor's attitude toward the Huber plan is the fact that in the thirteen leading industrial states, including Wisconsin, where legislation embodying plans similar to the Huber plan have been proposed, labor, organized and unorganized, expressing itself through every available medium, unanimously favored the passage of such legislation. These facts are taken from the American Labor Legislation Review of June, 1921. Is this not sufficient evidence to show that labor is not opposed, but is in favor of a plan, which, as we have shown, will insure them against unemployment.

The Negative claim that we are ignoring other causes of unemployment. We are ignoring some. This is not a cure-all, but we have shown again and again that we are striking at our most serious and widespread unemployment and have cited the best authorities in support of this contention.

They argue that national application is unwise, but we have shown that the unemployment problem is essentially a national problem which can be solved only on a national basis, and experience shows that only through national application can the desired results be obtained.

The Negative claim that the cost of administration would be too great, but we have already shown in our constructive argument that that cost would indeed be insignificant in comparison to the present cost of unemployment—$35,000,000,000 a year.

They claim that the bill is unfair to workers because it gives compensation to some and not to others. Again we say the bill is not all inclusive nor is it a relief measure. The relief is merely incidental to the greater purpose and cannot be attacked as unjust simply because it would not be given to every worker. We have shown that compensation is provided for when it is necessary to prevent our most serious unemployment.

They argue it is too great a burden on industry, but we have shown you through representative examples and quoting the best authorities in the country that industry can reduce and in fact eliminate this burden by stabilizing employment.

They claim the bill will be unfair to certain employers, but what plan can be more fair than one which makes the penalty for every employer directly proportionate to the preventable unemployment which he causes.

They claim it is a dole system, but they ignore the fact that the Huber plan is not a relief measure and that the compensation paid the unemployed worker is but a means to an end—that of reducing the number of unemployed workers.

They claim the bill will induce idleness, but the bill expressly guards against this because the unemployed worker, in order to secure compensation, must report to the employment office regularly and present evidence of inability to secure work, and they forget that compensation will be paid the worker only on the basis of one week for every four weeks he has been employed, and thus again the bill would function as an inducement to continuous employment so far as the worker has any choice in the matter.

The Negative object on the grounds that seasonal industries are exempt. True, but the bill provides for a Federal system of employment agencies to find jobs for the seasonally unemployed.

The Negative have tried to discredit the Huber plan because it was ignored by the President's conference. On the contrary, the President's Conference on Unemployment appointed a special committee to study preventive measures, and we find that the very first thing they were told to study was the Huber unemployment prevention plan. And, while they did not recommend a plan of action of any kind, it is significant that the first four of the five things they said must be accomplished are the very results which we have shown you will be accomplished by the Huber plan. They didn't outline any plan, but what they did have the courage to recommend was evidently based upon the very Huber bill they were told by the general conference to study. The merits of the Huber bill then, were recognized by the President's conference.

But in their hailstorm of objections, the Negative have not disproved any of the vital issues of this debate. We have shown that the Huber plan aims at the basic causes of our most serious and widespread unemployment. The most reliable government figures back this contention, and the Negative could not challenge them. We showed that employers could control these causes through better management and more conservative expansion policies and prevent that most serious unemployment. This argument we supported with statements from the leading members of the President's conference, and again the Negative could not disprove it. We then showed you that the Huber

plan would cause employers generally to take the necessary steps to materially reduce that unemployment as we have shown you some employers in a variety of industries have already done. They attempted to attack the issues on the grounds that industry does not need this incentive to reduce unemployment, but in that argument, they utterly ignored the vital fact that employers are not now doing it and that whatever penalty industry pays normally is paid during good times when the penalty means little or nothing, but that this added penalty would have to be paid when every added dollar would have its certain effect.

In proving these issues, we proved that the Huber bill would accomplish its aim, not to act as a cure-all, but to materially reduce our most serious and widespread unemployment, and we claim that these arguments have not been shaken. And therefore, we of the Affirmative contend that the essential features of this plan should be embodied into Federal legislation.

Negative Speeches in Debate Against Illinois Wesleyan College

FIRST NEGATIVE

Alden Behnke, Lawrence

The first Affirmative speaker has told you that the employee bears the brunt of unemployment while the employer is the only one that can control the causes of that unemployment. We agree that the employee undergoes the hardship from unemployment, but the Affirmative must show us how the employer can control the causes of unemployment, and also how the Huber bill will force him to reduce the unemployment in his power to reduce.

The Affirmative speaker has drawn a contrast between the British plan and the Huber bill. He has failed to show you that the English plan of 1911 had the same fatal feature as the Huber plan, the incentive to the employer to reduce his unemployment. After a few years of embarrassing failure, England discarded the preventive measure for the present dole system.

He has painted a vivid picture of the evils of unemployment. He must show us how the Huber plan will alleviate those evils.

We will show that it is hopelessly inadequate as a remedy for those evils, the importance of which we not only admit, but wish to emphasize.

We of the Negative want it to be clearly understood that we do not underestimate the seriousness of the unemployment problem. We wish to emphasize the need for an effective remedy. We further agree that in the solution of this problem industry can and must do its part. We admit that the day may come when it may be wise to embody the insurance principle in some form of legislation which would adequately insure labor against that irreducible minimum of unemployment for which the worker is not responsible.

With this understanding let us proceed to a clearer interpretation of the question. We are not concerned this evening with the principle of unemployment insurance. We are debating a definite application of that principle as expressed through the essential features of the Huber Unemployment Prevention Bill. The essential features must of necessity be those which are vital to the accomplishment of the bill's chief purpose. This, in the words of its author, Dr. John R. Commons, is the reduction of unemployment. The discussion this evening, then, naturally resolves itself into a discussion of a remedy for unemployment. It is upon this basis that the Affirmative must justify the national application of the essential features of the Huber bill, not as an absolute remedy, but as the most effective remedy for the evil that bill aims to remove. They can establish the effectiveness of their proposed plan only insofar as they can prove: first, that the chief causes of unemployment come within the scope of this bill, and second, that this proposed remedy will actually remove those causes. They must furthermore justify their proposal as an innovation in the history of American reform legislation, namely: the unprecedented proposal that this measure, quite unlike any in Europe and entirely untried in America, dealing with so vital and complex a problem, be applied with one stroke of the pen, at the same time and in like manner to every industry in every state of this vast country. On this ground we will meet the Affirmative and prove that their plan is unwise and hopelessly inadequate as a remedy for the evil it aims to remove.

It shall be my purpose to prove that the Affirmative plan is entirely inadequate as a remedy for unemployment because the

field within which it would operate, even if successful within that field, is entirely too limited for it to materially affect this great problem. In the first place, the bill by its own terms excludes all unemployment resulting from causes other than lay-offs. According to Bulletin 310 of the United States Bureau of Labor Statistics, according to the March, 1918 issue of Industrial Management, and according to the December, 1920 issue of the Political Science Quarterly, only about 11 per cent of all separations are lay-offs, the other 89 per cent being justifiable discharges and quits with which this bill is in no sense concerned. Now, there are no figures obtainable to determine the percentage of unemployment resulting from this 11 per cent of all separations. We believe, however, that the unemployment resulting is very much in proportion, and we are prepared to argue this point with the Affirmative if they so desire, but inasmuch as the lay-offs are so small a part as 11 per cent of all separations, it is quite evident that their plan, in the first instance, entirely disregards the causes of at least the major share of all unemployment. In fact, their bill, in excluding quits and discharges, recognizes that this greater part of all unemployment can be reduced only through the voluntary action of individual employers, who must be induced to follow the lead of a few illustrious examples who have discovered the secret to happy and contented workmen who will not desire to quit or give cause for discharge. The Affirmative plan, instead of in any way encouraging such action on the part of the employers, will actually retard that most vital step in the solution of this serious problem in that it antagonizes the employer through the assumption that he is alone responsible for unemployment. We ask the Affirmative, how will they establish the effectiveness of their proposed plan as a remedy for the unemployment problem when it directly disregards and indirectly hinders progress within that larger field of unemployment resulting from all but 11 per cent of separations from the job?

In the second place, not only does this bill disregard all unemployment due to causes other than lay-offs, but within that limited field of 11 per cent, it further greatly restricts its operation through a series of definite exemptions. It makes no provision whatsoever for lay-offs due to acts of God, natural catastrophes which create the worst kind of unemployment.

Further, lay-offs among that vast army of Federal, state, county, and municipal employees are all exempt, as are the lay-offs among farm and land workers. No provision of any kind is made for them. Allow us to point out that the bill evidently aims also at exempting practically all lay-offs among the more skilled workmen in that it specifically states that a man receiving $1500 a year or more shall not be entitled to compensation. All unemployment among the highly skilled workers is thus entirely ignored. Bear in mind that these large exemptions are all further reducing that field of 11 per cent. Seasonal industries are admitted to be one of the greatest, if not actually the very greatest single cause of unemployment resulting from lay-offs, and yet we find that the bill exempts all lay-offs in seasonal industries after the close of their usual period of operation. Surely this list is sufficiently formidable to warrant the conclusion that it further very materially reduces the bill's field of operation within the 11 per cent to a possible 6 or 5 per cent of all separations. Again we ask the Affirmative, how will they establish the effectiveness of their plan as a remedy for unemployment when it first of all limits itself to the comparatively small field of lay-offs, and then further restricts that field through so extensive a list of exemptions?

In the third place, not only is the ineffectiveness of the Affirmative plan evident because of these limitations, but also because the remaining lay-offs to which the bill really does apply are primarily the result of causes over which the employer has no control. There is the uncertain international situation causing marked fluctuations in international trade. Wars in Europe, panics in Europe, credit disruptions in Europe, tariff changes in Europe, our own ever-changing tariff as well as immigration—all these factors, extremely uncertain and entirely uncontrollable by the employer, vitally affect American industry. They are recognized as very important causes of unemployment, directly responsible for a very large per cent of the remaining lay-offs to which the Huber bill would apply. Surely the Affirmative will not attempt to prove that industry can control these causes, yet, unless they do prove this, they should show us how, by placing a burden on industry, they intend to reduce the lay-offs resulting from these causes. Thus in the final analysis, we find the effectiveness of the Affirmative plan still further reduced in that

within its limited field, it in no manner approaches the causes of a very large per cent of the lay-offs to which it would apply. Once more we ask the Affirmative, how will they establish the effectiveness of their proposed plan?

Therefore, because the proposal, advanced as a remedy for unemployment, first confines itself to the unemployment resulting from 11 per cent of all separations: namely the field of lay-offs; second, because through a formidable list of exemptions it further restricts that field, and finally, because within that restricted field, it entirely ignores the most vital causes of the lay-offs to which it would apply, we maintain that it is entirely inadequate as a remedy for the evil it aims to remove.

In conclusion allow me to state that we do not wish the Affirmative to attempt to answer this attack upon their coveted remedy by quoting figures of some economist's wild guess as to the causes of unemployment. We invite them to debate the Huber bill and ask them to base their answer upon an analysis of that bill. May I further point out that regardless of how they may attempt through theory to establish the workability of their scheme, which we claim they cannot do, they still face the fact that an analysis of the Huber bill reveals that it applies to so limited a field, that were it successful within that field it would still fail to appreciably affect the unemployment problem. In the face of these facts, we of the Negative are emphatically opposed to the national application of the essential features of the Huber bill as a remedy for unemployment.

SECOND NEGATIVE

Chester Seftenberg, Lawrence

Ladies and Gentlemen: The gentleman who has just left the floor evidently misunderstood the statement of my colleague in regard to the exemption, among others, of skilled workers and those earning $1500 a year. The section of the bill which the Affirmative gentleman so carefully read for us shows specifically that our contention is true. That section reads, "Any man is excluded from compensation if his total income, exclusive of that from manual labor"—surely manual labor is not skilled labor—"exceeds $1500 a year." And it is only the skilled worker that receives over $1500 a year."

Whatever reason the Affirmative gentleman had in reading this section, the result was to further prove that among its exemptions the bill excludes the unemployment among the skilled workers.

My worthy opponent also misinterpreted our "inadequate" argument. That argument was not against extending an inelastic law over the whole country and applying it to every industry in every state. While we are opposed to such action, the argument my worthy opponent referred to was that in respect to the whole unemployment problem, any plan dealing with less than 11 per cent of separations is inadequate with respect to the whole of the unemployment problem.

The Affirmative gentleman spent much of his time in outlining the causes of unemployment and gave seasonal unemployment and the business cycle caused by the over-expansion of industry as the major causes. A careful analysis of the Huber bill will show, as my colleague proved, that the Affirmative plan exempts all unemployment in seasonal industries after the close of their usual period of operation. With respect to the business cycle, I shall show in my constructive case how it will fail to prevent, stop, or destroy that cycle by its supposed check on over-expansion.

Of the two causes presented by the Affirmative, one is excluded from the field of their plan; and they must still show how their plan will prevent the other. I shall prove how and show why the Huber bill will not prevent over-expansion.

The first Negative speaker, through an analysis of the Huber bill, has proved that the Affirmative plan, while advanced as a remedy for unemployment, concerns itself only with that unemployment arising from less than 11 per cent of all separations, that a long list of exempted lay-offs further restricts its field, and that finally the bill itself ignores the chief causes of the remaining lay-offs to which it applies. The Affirmative were left facing the proposition that, insofar as their plan could operate, it would operate within a field entirely too limited to really affect the unemployment problem.

I shall now take up the Negative argument and further prove the ineffectiveness of the Affirmative plan by showing why it will not function as a preventive measure even within its field of operation.

The advocates of the Huber bill advance two theories for the working out of their plan in the prevention of unemploy-

ment. Both are based upon the penalty which is placed upon lay-offs. The first is to function directly upon the employer through his desire to evade the penalty. The second is to function through the banking system as a check upon over-expansion. Let us consider these in the order named.

It is a beautiful theory that an added penalty on about 11 per cent of labor turnover will cause industry to solve the unemployment problem. But let us look at this added penalty in the light of what unemployment now costs the employer, and we shall see that the present cost of labor turnover is more than sufficient to induce the employer to do all that he can to reduce that unemployment which he can control.

It has been shown that all through the country employers are continuously introducing plans for the successful reduction of unemployment and the regularization of industry.

Dr. Commons admits in his principles of labor legislation, "Regularization of industry and the reduction of unemployment are demanded by the interests of the employer."

Competition demands it. Nothing under Heaven can force the employer to do more to provide steady work for his employees than the present terrific pressure of competition. As M. P. Gould says, "Competition is keen. To some it is fierce, to all it is relentless. It forces the employer to stabilize the labor side of production." Why? Because the cost of labor turnover has been found to range from $10 to $15 for the ditch digger to as high as $200 for the average workman and much higher, of course, for the skillful workman. Now this cost rests on 100 per cent of labor turnover, and it is ridiculous to assume that the average American employer will not do everything possible to reduce that cost as an item in his production costs. These facts explain in part why lay-offs already have been reduced to less than 11 per cent of all labor turnover, and the reason for its still being 11 per cent instead of a possible 3 or 4 per cent is that this 11 per cent includes those lay-offs due to causes which the employer cannot control.

Is it not clear, then, that the unemployment which could be reduced through a penalty on industry is already reduced by a cost now resting on 100 per cent of labor turnover and that the entire unemployment problem could but be little affected through an added liability on 11 per cent of that turnover? Especially is that true because the greater part of that 11 per cent is beyond the control of the employer.

In fact the Affirmative authorities recognize that the present cost of labor turnover has already forced industry to do practically all that it can to reduce lay-offs, for they proceed to throw the blame for unemployment on the shoulders of the bankers. Dr. Commons says, "More important than the employer is the banker as a stabilizer of employment." And on this basis the advocates of the Affirmative plan attempt to show how it will reduce unemployment through its check on the credit system. In short, they argue that if this added penalty is placed upon 11 per cent of labor turnover, it will be so formidable an item in the industry's resources that the banker will refuse to extend credit for over-expansion, over-production, and the like.

Let us first of all test their argument with a conservative example. An industry with resources of $20,000,000 and employing two thousand men comes to the bank for credit for expansion purposes in a boom period. The banker figures that if this employer were forced to lay off one thousand men—half of his total working force—and if each and every one of these one thousand men fails to find employment for a period of ninety days, as under the Huber bill, the employer's total liability would be in the neighborhood of $90,000. Now would this $90,000, in comparison with the industry's total resources of $20,000,000 have any affect on that industry's ability to borrow? This is the boom period, remember! If industry can borrow for expansion purposes now-a-days in the face of the present terrific cost of unemployment, surely a mere added penalty will have little influence toward making the banker adopt a conservative policy.

The fatal fallacy of this new argument is this: Bankers, too, are human, and instead of maintaining conservative policies in boom periods, they too ride with the boom. And as proof of this we have the recent widespread bank failures, so numerous and serious that President Coolidge and Secretary Hoover have had to take steps to relieve the resulting distress and to avert possible catastrophe.

We may need a check on the credit system and perhaps we can secure it through the Federal Reserve System; but surely so long as the policies of individual banks are determined by human beings as fallible as the industrial managers that ask for the credit, this added penalty on 11 per cent of labor turnover—most of which will be passed on to society, the buy-

ers—will not appreciably affect our credit policy. Thus again we find that the Affirmative plan will fail by this route in its aim to remedy the unemployment problem.

The Affirmative plan is therefore hopelessly ineffective as a remedy for unemployment, not only because the field within which it would operate is too limited to affect the larger problem, but also because it will be ineffective even within that restricted field.

These facts and numerous other objections to the bill have caused an almost unanimous opposition to it on the part of the employer, the government, and even labor, the group it is designed primarily to help.

The Affirmative will admit that employers everywhere are fighting their plan, so I need only mention that fact.

For the government's attitude we have only to look at the President's Unemployment Conference. At this gathering, composed of over one hundred of the leading economists, labor leaders, and employers, the very plan of the Affirmative was under consideration. The Conference made some thirty recommendations for relieving unemployment; but among those thirty they did not recommend unemployment insurance by law either as a permanent or temporary measure.

Herbert Hoover, chairman of the Conference, said, "The remedy for these matters, unemployment, must lie outside the range of legislation." And this represents the opinion of the majority of over one hundred of the ablest men, called together to find some remedy for unemployment.

The most surprising fact of all is the opposition of labor. For twelve years, the American Federation of Labor has unanimously voted down any proposition for compulsory unemployment insurance. Representing the American Federation of Labor before the National Civic Federation last year, in answer to Dr. Commons who had just presented and spoken in favor of the Huber bill, Samuel Gompers said, "There has thus far tonight been no insurance against unemployment. It has been a mere payment and dole on account of being unemployed. I believe in the voluntary system of trying to provide for the unemployed worker. He wants work—not unemployment insurance." And it is because the Affirmative plan will fail to provide work for the unemployed that labor has thus voiced its opposition.

It is plain, then, that the Affirmative are advancing the national application of an unemployment prevention plan which already has aroused the opposition of industry, the government, and even labor.

The Negative have thus far proved that the Affirmative plan, advanced by its author and advocated as an unemployment prevention plan, is entirely insufficient, because in confining itself to the small field of lay-offs, in materially reducing that field through a long list of exempted lay-offs and in disregarding the chief causes of the remaining lay-offs to which it applies, it confines itself to a field entirely too small to really affect the unemployment problem. We showed further why it will be ineffective even within that limited field of operation and pointed out that because of its certain failure to accomplish its intended aim, it is being opposed by industry, the government, and even by labor, the group it is intended to help.

For these reasons we of the Negative maintain that the essential features of the Huber bill shall not be enacted into Federal legislation.

THIRD NEGATIVE

Dan Hardt, Lawrence

My Friends: At this point it would be well to clear up at once a misstatement of the Negative case made by the last Affirmative speaker. He said, in summing up the Negative case so far tonight, that the Negative had admitted that industry could control the major causes of unemployment. The Negative tonight has admitted no such thing. He has misquoted us. Illinois Wesleyan Affirmative is debating us tonight, and we of the Negative do not for one moment make any such admission. Indeed, we proved to you conclusively that the major causes of unemployment are entirely without the control of industry, and that in that sense the Huber plan works an injustice to the employer.

The last Affirmative speaker tried to prove the Huber plan is fair to the employer. Let us see. Here is a Conklin fountain pen. It is made from rubber imported from Brazil. If something happens to the Brazil rubber crop so that the Conklin people can get no rubber, they are forced to shut down their plant, and, with the Huber bill in force, would have to pay their

employees relief. Relief for what? For unemployment they could help? No! For unemployment due to a condition over which they have absolutely no control! Is that fair to the employer?

I would ask the Affirmative, too, how they will meet the fact that Dr. John R. Commons, author of the Huber plan, himself does not see how the Huber plan could be nationally applied? He conceived the Huber bill as a state measure, as an experiment in social insurance. I read from a letter from him, dated February 27, 1924, in which he says, "I do not see how the principle of the Huber bill could be nationally applied."

How will the Affirmative meet that overwhelming concession from the very author of the plan they advocate?

The Affirmative have asked us how we would meet the unemployment situation, having admitted its seriousness. My Friends, I shall show you that there is a better plan, a course of procedure which strikes more effectively at this distressing problem.

In the first place, instead of disregarding all precedent, as does the Affirmative plan, the attempt at the solution of this problem must be guided by America's past experience with reform legislation. A review of the history of past progress can lead the thinking man to but one conclusion; that the unemployment problem should not be approached by forcing any arbitrary, theoretical, and universally opposed plan, simultaneously and without regard to local conditions, upon every industry in every state.

Great and complicated economic problems are never solved through such a policy. Restrictions on woman labor, the abolition of child labor, minimum wage legislation, factory inspection legislation, the eight-hour day movement, workmen's compensation to which the plan of the Affirmative is usually compared,—none of these came through the method advocated here tonight.

Following in the wake of educational propaganda, which must ever prepare the way for reform, these movements advanced slowly but steadily from industry to industry, from state to state, from section to section, correcting their mistakes, ever modifying and adjusting themselves to meet the varying conditions encountered in their advance across this vast country. Mr. Roundtree, the noted English employer and economist, while speaking of unemployment insurance, said that America was especially fitted to experiment with social legislation, because here

the new idea may be tried within the bounds of a single state before the entire nation experiments with a scheme that may appear sound in theory, but prove to be unwise.

Permanent progress within our intricate, complex, economic order can come only through the experimental, evolutionary process. This has been America's policy in the past, and because of its theoretical soundness and proven wisdom, we maintain that the unemployment insurance principle, if it should ever be applied nationally, should first be obliged to follow the well-chosen course of its predecessors.

The Negative contends that a vastly different and far more effective plan of action than that presented by the Affirmative here tonight must be brought forward. It must be a plan that, in its approach to the problem, is based upon past experience; that recognizes and attacks the basic causes of unemployment; that employs existing agencies, able to cope effectively with those causes, and that invites and secures the cooperation of industry.

The authors of the Huber plan in limiting the operation to lay-offs recognize that law alone can never force action within the field of quits and justifiable discharges, which constitute 89 per cent of all separations. Only the employer through voluntary action can remedy that situation and that action must be sought through a policy which instead of arousing the opposition of employers, as would the Affirmative plan, will tend to secure their cooperation in the attack on the unemployment evil. Then only will employers try to discover the secret of a contented working force and attempt to follow the example of Swift & Co. in its Chicago plant, employing twenty-six thousand men, where through better management the number of discharges each month have been reduced from 16 to 1½ per cent. This most important consideration, not alone disregarded, but actually hindered under the Affirmative plan, must be given consideration in any plan for effective dealing with the unemployment problem.

May I present to you a general outline of a plan which does comply with this fundamental requirement?

We have shown you that the Huber bill after first confining itself to lay-offs, exempts a very large per cent of them, admitting that industry alone cannot control their causes. We then proved to you that a major portion of the remaining lay-offs upon which the bill places its penalty, is also resultant from

causes which industry cannot control. We contend that the government alone can deal effectively with these causes and that in all fairness to industry and in all justice to the worker, the government should take the initiative in the movement to reduce unemployment.

While Wisconsin may be making the first experiment with unemployment insurance, not, however, with the Huber plan, we would suggest that as a first step, the Federal government create a national employment service, with offices in the big industrial centers of the nation, where information as to the supply and demand of labor could be obtained. What better plan than this is there for meeting that great part of unemployment due to seasonal industries? In the words of Don D. Lescohier, noted University of Wisconsin sociologist, "the development of an adequate, permanent, nation-wide organization of the labor market is the basis of the whole program."

To reduce the vast amount of unemployment due to fluctuations in international trade, for which the Affirmative would penalize industry, we suggest that the tariff be taken out of politics and placed in the hands of a commission of economic experts, with power to adjust the rates in conformity, not with the whims of politicians, but with the needs of industry and the welfare of the American workman.

As a further measure, we would recommend a more carefully planned immigration policy, which, like the tariff, should be flexible and adjustable to the country's needs. Through such a policy the over-flooding of the American labor market during our more prosperous times could readily be averted.

The advocates of the Huber plan make much of this measure as a remedy for the unemployment resulting from depressions. We suggest that the government build public works during the depression periods, a policy of far-reaching results, for not only would the laborers be given work, but with the subsequent increase in the buying power of the laboring classes, the demand for production would at once be increased all around, and more laborers would be put to work. This measure would, then, not only effectively reduce unemployment during depressions, but actually help to hasten the return to prosperity.

But, answer the Huber plan advocates, our plan will prevent the depressions. We have already shown you why their plan can do no such thing!

We should urge, instead of striking at the banks indirectly through industry, that the government adopt a direct policy and through its control of the Federal Reserve System, place an effective check upon credits whenever conditions so warrant. A regulation, for example, calling for a higher cash reserve in relation to total deposits, would immediately cause a rise in interest rates, limit borrowing, check over-expansion, and avoid the resulting depression. Such a policy of direct action would effectively accomplish what we have shown you the Affirmative plan can never do.

With the government taking the initiative, industry will follow and in cooperation with the government, attempt to solve its unemployment problem. Employers of today are not the employers of a quarter of a century ago. Far more enlightened, an ever-increasing number of employers, compelled by the enormous cost of labor turnover, are putting into force their own plans, within their own plants, evidence enough that industry *is* awaking of itself to the graveness of the situation and is arising to meet and solve it. Recently one group of like industries in Chicago, employing approximately thirty-five thousand men, put in force within their own plants a system for unemployment relief. This ever-growing list is proof enough that American industry can be induced to follow the government's lead in the attempt to meet this grave menace.

Such a course aims in a very practical and direct way at the solution of the whole problem, a course of action, which, based on the lessons of the past experience in industrial progress, includes the only effective means of securing the cooperation of industry, a thing which so evidently must be secured before any progress can be made.

In conclusion, our first speaker showed that the Affirmative were obliged to prove two fundamental things: that the chief causes of unemployment come within the scope of their bill, and, that the bill would remove those causes. They have failed to prove either.

On the other hand, we have proved that their plan confines itself to too narrow a field to appreciably affect the unemployment problem, that it ignores the chief causes of the unemployment within that field, and that even insofar as it does recognize these causes, it would still fail to function as a preventive measure because the present cost of labor turnover gives the

employer already sufficient incentive to prevent unemployment which he can control.

We showed that as a general policy their plan is far in advance of its time, is opposed on every hand, and disregards the history of industrial progress which teaches that so big a step must come only after years of education and experimentation, as came child labor reform and workmen's compensation.

We then outlined a program which is based on past experience, which strikes directly and effectively at the great causes of unemployment, ignored by the Affirmative, and which would secure that cooperation of industry so essential to the successful operation of any plan for unemployment prevention.

FIRST NEGATIVE REBUTTAL

Alden Behnke, Lawrence

The Affirmative have drawn an analogy between Workmen's Compensation and Unemployment Insurance. It is true that employers through unusual efforts were able to reduce accidents 50 or 75 per cent. Why? Simply because the causes of those accidents were directly under the control of the employer within his own factory walls. On the other hand, the causes of the major share of unemployment are outside the employer's direct control. We have proposed a plan of cooperation between the employer and the government to reach these causes.

We agree with the Affirmative that the business cycle can be modified to some extent, but we have shown that the causes of that cycle are, on the whole, outside of the employer's control. We have shown that the government should logically take the next step.

The Affirmative contend that because all employers are treated alike under the bill, immigration and the other causes of depressions will not affect one employer any more than another. We maintain that the Huber bill would be unjust to all employers through trying to make them reduce lay-offs when the chief causes of those lay-offs are outside their control. We would control those causes by definite remedies instituted by the government.

The Affirmative claim that the Huber plan will foster friendly relations between capital and labor. If this is true, why the

opposition of both parties involved? Is it a desire to maintain hostile relations? If that is the case, how could this bill remedy that situation?

Honorable Judges, the Affirmative dispute our contention that the Huber plan ignores fundamental causes of unemployment. However, they must admit that their bill is limited to 11 per cent of all separations, and that definite exemptions further reduce that 11 per cent. One of these exemptions is seasonal industries. In a report entitled "Waste in Industry" made by a committee appointed by Mr. Hoover in 1920, the opinion was expressed that the *greatest waste* is from seasonal unemployment. Thus we see that one of the greatest, if not actually *the greatest single cause* of unemployment is exempted. This, with all the other exemptions, including the exemption of all those receiving over $1500 a year, surely reduce the bill's field of operation to 5 or 6 per cent of all separations. The Affirmative would solve the unemployment problem by placing a penalty of five or six men out of every hundred that leave the job.

But the Affirmative also ignore that most of these five or six men out of every hundred separations are laid off as a result of causes which the employer cannot control. Immigration for instance—there are a million and a half unemployed normally. There are a million immigrants each year. Does it not seem, then, that some restriction on immigration would help to remedy the unemployment situation? We have numerous authorities emphasizing this and the other causes we have mentioned such as tariff, international trade, foreign wars, hard times in agriculture, etc., which are responsible for those five or six lay-offs.

We have asked the Affirmative how their bill will reach these causes. They have not shown, nor can they show how their bill would prevent even these five or six lay-offs.

In the face of these facts, we have asked them how they would justify the tremendous cost which this plan would involve; how they would justify giving a dollar a day to certain workers and not to others, equally needy and equally deserving; how they would justify forcing this scheme upon us against the opposition of both capital and labor, and finally how they are justified in disregarding all precedent and experimenting on a national scale with so radical and untried a proposal. When the Affirmative have met these vital issues, we will be ready to consider the Huber bill as a possible remedy for unemployment.

SECOND NEGATIVE REBUTTAL

Chester Seftenberg, Lawrence

The gentleman who has just left the floor has told you that our case rests on two fallacies which cause it to fall. He said that we of the Negative have forgotten that today we are bearing the cost of unemployment and that we are confining ourselves to the minor details of the bill itself, forgetting that we are debating tonight only the essential provisions of the Huber bill.

Taking these in order, I shall say that we of the Negative are not forgetting that today there is tremendous cost of unemployment. In fact in my constructive case I pointed out that it was this tremendous cost that was forcing industry to do all that it could to reduce that cost as an item in its production costs. If industry disregards this present terrific inducement, how much will an added penalty on eleven out of every one hundred men that leave the job affect industry's efforts? And remember that even were we to have this plan, in addition to the cost of that plan we would still have the cost of the greater share of unemployment which as we proved lies outside the range of the Affirmative plan. We have shown that this plan will fail so the Affirmative will merely add another cost to that already terrific cost of unemployment.

The second fallacy, the Affirmative gentleman says, is that we are confining ourselves to minor technicalities. But let me remind you that it was the second Affirmative speaker who first spent his time in finding fault with our interpretation of the section of the bill dealing with one of its many exemptions. And to answer his faulty argument it was necessary that we too refer to a section of that complicated bill. We are debating the essential provisions of this Huber bill, and our case is based on those essential provisions. The Affirmative have yet to show that their plan will prevent unemployment—its essential aim—and accomplish this either through its added inducement to the employer or through its supposed check on the credit system. These are the essential provisions for the working of their plan, and they must prove that because of these essential provisions, their plan will be successful, its success being measured by its effectiveness only as a preventive measure.

The Affirmative have often stated that they questioned our statistics on separations and unemployment, and the gentleman who just left the floor again told you that they doubted these figures. He went on to say that at some future time they would present authority to show that we misinterpreted and that our figures were wrong. May I ask the Affirmative, "Why are you putting off the presentation of that authority? Are you afraid of the Negative attack on that authority if it is presented in time?" There are, Honorable Judges, two Affirmative speakers remaining and but one Negative speaker. I ask the next Affirmative speaker to present that authority in order that we of the Negative shall have an opportunity to answer it.

Now to prove that the greatest share of unemployment arises from those 89 per cent of separations not included in the Affirmative plan, I shall present the following authority. Bulletin 310 of the United States Bureau of Labor Statistics says that even "in the worst year of the depression period of 1914, quits alone never fell below 49 per cent of all separations and lay-offs never rose above 30 per cent." Thus forty-nine quit and took the chance of becoming unemployed. This shows that quits are a serious cause of unemployment, especially when with discharges they account for 89 per cent of separations.

In the December, 1920, issue of the Political Science Quarterly, a published report made by Brissenden and Frankel confirms the above government statistics.

John Calder, an industrial engineer of national repute, said in the November, 1922, Survey, "Voluntary quits are large even in normal times when they account for a great portion of unemployment."

And even in the field of lay-offs the Affirmative plan excludes seasonal unemployment which authorities agree is the greatest single cause of unemployment resulting from lay-offs.

And right now tonight government statistics show us that there are five hundred thousand unemployed because of strikes. Then there are another five hundred thousand belonging to the class of the casual labor—those who never had a steady job and never want one. They too are excluded from the bill. Out of the one and a half million which the Affirmative say are unemployed, we thus find that two-thirds are unemployed from the cause of quits alone.

The Affirmative say that they shall question our statistics. Let them present their authority, but the impartial government

figures will stand any attack the last Affirmative speaker may bring.

The Affirmative have attacked our plan and told you that it was not backed by authority, that it was merely the unbacked assumption of the Negative. On the contrary, permit me to read the following testimony:

Hoover said, "This is a problem for voluntary methods," and he is backed by the majority opinion of the President's conference.

Gompers said, "I believe in the voluntary system of trying to provide for the unemployed worker." And he recommends public works. He is unanimously backed by the American Federation of Labor.

Former Secretary of Labor Davis said, "I strongly recommend a system of Federal Labor Exchanges."

The third recommendation of the President's Conference reads, "Definite settlement of tariff legislation" and the sixth reads, "Steps to minimize fluctuations in foreign exchange, to facilitate recovery from our slump in exports."

The committee on the business cycle of the President's conference recommended, "Tightening up of the lending function of the Federal Reserve System" as a basis for unemployment prevention—exactly what we advocate.

President Harding in January, 1922 wrote to his cabinet requesting them to aid in providing work for the unemployed by pushing ahead repair and construction work.

Canada adopted this phase of our plan in 1921. California, Pennsylvania, New Jersey, Massachusetts, and Louisiana, adopted it in 1922, as did the states of Maryland and Rhode Island.

Now in the place of a limited, ineffective plan certain of failure, we propose a plan that authorities agree fundamentally strikes at the basic causes of unemployment. We propose an adequate, effective, and sound plan which shall control the primary causes of fluctuations in demand, provide means for the adequate and intelligent distribution of labor, directly and effectively control the causes leading up to over-expansion, and provide work for that irreducible minimum of unemployment, as well as effectively check the growth of unemployment at the beginning of the depression through an intelligent and sound scheme of public works.

Such a direct, practical, and feasible plan we propose instead of the Affirmative plan which is inadequate and ineffective.

THIRD NEGATIVE REBUTTAL

Dan Hardt, Lawrence

The last Affirmative speaker attempted to take over the Negative plan as supplemental measures to the Huber plan. In so doing, he admits that his bill is not the best plan for meeting unemployment; admits the argument of the Negative, that the Huber plan is vastly inadequate. He would take over measures to meet unemployment resulting from over 89 per cent of separations, that vast field entirely ignored under the Huber plan. But he cannot do that. He must justify the Huber bill as the best means for meeting unemployment in America, the whole problem, and this in the face of the fact that the plan at highest efficiency, as we have proved, can help but less than eleven out of every one hundred unemployed.

We find a fatal error in the Affirmative case. Dr. Commons, author of the Huber plan, says that the relief features of the bill are only "secondary," while "prevention of unemployment is its primary purpose." Yet the Affirmative's entire case with but one exception has been built about the relief provisions of the bill. How do they reconcile that attitude with the statement of the author of the plan as to its main purpose?

The Affirmative have not yet answered the fundamental objections we raised to their plan: the fact that it is inadequate to meet the unemployment problem, for we have proven it is limited to the unemployment resulting from less than 11 per cent of separations from the job; the enormous cost of the plan, for Miles M. Dawson, consulting actuary for the United States government, before the World War, when prices were lower than they are today, estimated it would cost over $800,000,000 just to install, to say nothing of future maintainance, of any plan for unemployment insuruance; the fact that it is unjust to labor and would give relief to one and not to the other, equally needy and equally entitled to relief; the fact that it is opposed on every hand, by labor, capital, and the government; the fact that the President's Unemployment Conference investigated the Huber plan and never recommended it; the fact that

it is unfair to industry and is apt to antagonize the employer and stop voluntary measures to relieve unemployment now in progress. These are only a few of the many fundamental objections we can raise to their plan; objections the Affirmative must overrule or grant the failure of their case.

They have not yet, either, answered our letter from Dr. Commons, author of the Huber plan, in which he says he does not see how the Huber plan can be applied nationally. We ask them to answer that fact at once, or their case must fall.

Let us review briefly the two cases presented tonight. The first Affirmative speaker told of the seriousness of the present unemployment situation in America, but we admitted it, showed how the Huber plan was inadequate to meet it, and proposed a better plan.

He also reviewed the history of unemployment relief, but he neglected to tell you that the incentive feature of the Huber plan, which Doctor Commons says is its best claim to possible success were it put in force, was contained in the first English plan of 1911, which was a failure and was dropped in favor of the present relief system after several years of unsuccessful operation.

He said the Huber bill "would mitigate the evil effects of unemployment," but he didn't prove it, and we, on the other hand, proved that far from mitigating the evil effects, it would tend to increase them, for it is opposed on every hand.

The Affirmative attempted to prove that it would prevent unemployment due to over-expansion of industry, but we proved that that is largely dependent on the voluntary action of employers, while bankers could not insure its success because the recent widespread bank failures following the last depression prove bankers "too are human and ride with the boom."

The third Affirmative speaker tried to show the plan was just to the worker, but we proved it was unjust to the worker in that it gave relief to one worker and not to another, equally needy and equally entitled to relief. He said it would make for better relations between labor and capital, but we fail to see this point when it is considered that the bill affects less than eleven out of every hundred laborers unemployed, and would antagonize industry for it makes industry responsible for conditions over which it has no control.

Honorable Judges, we have asked the Affirmative how they would prove the effectiveness of their unemployment prevention

plan when it entirely disregards the unemployment resulting from all but 11 per cent of separations, when through exemptions it further reduces that 11 per cent to probably 5 or 6, and when it ignores the chief causes of unemployment within that remaining small field. They have not yet answered these vital questions. Unable to show that the chief causes of unemployment come within the scope of the Huber bill, they are naturally unable to show how it would remove those causes. They have not dared test these first and most fundamental issues with those provisions of the Huber bill outlining its sphere of operation.

Besides proving that the Huber plan applies to too limited a field to affect materially the great unemployment problem, we proved to you that it would not even act as a preventive measure within that narrow field, primarily because the present cost to industry on 100 per cent of its labor turnover is already so great that an additional cost on 5 or 6 per cent of that turnover would not affect the great unemployment problem.

The course of action outlined by us tonight stands in striking contrast to the idealistically conceived plan of the Affirmative. Instead of assuming that industry is ignoring the enormous cost it is now paying on its labor turnover, we would recognize that industry has already reduced controllable lay-offs to an insignificant per cent of separations, while the government has done nothing more than investigate. We conclude, therefore, that the government should logically take the next step in the movement to reduce unemployment.

Instead of proposing one remedy for so vast and complicated a problem, we would recognize the need for a definite remedy for each of the basic causes of unemployment.

Instead of applying so radical a measure at one time to every industry in the country, we would recognize that this great reform must come in the same manner as have come all other great and lasting reforms in the past.

The very seriousness of the situation, Honorable Judges, calls for direct, effective, and specialized action, such as we have presented here tonight; a plan backed by the best thought among laboring men, industrial magnates, government experts, and economists;—definite remedies for definite causes and guided always by the light of our past experience in industrial reform.

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CHAPTER IV

LIMITATION OF THE POWERS OF THE SUPREME COURT

SWARTHMORE COLLEGE

versus

TRINITY COLLEGE

RESOLVED: *That the power of the United States Supreme Court should be limited.*

This is a stenographic report of the fourteenth annual debate between Swarthmore and Trinity Colleges which took place at Durham, N. C., on February 29, 1924. The debate was conducted on the open forum plan, whereby each institution furnished one debater for each side of the question. There were no judges, the decision being rendered according to the vote of the audience. Forty-four votes were registered for the Affirmative and one hundred and eighty-five for the Negative. At the close of the debate members of the audience were permitted to ask questions of the debaters. This report was secured through the courtesy of Mr. Earl L. Williams, Manager of the Swarthmore College Debate Board.

BRIEF

LIMITATION OF THE POWERS OF THE SUPREME COURT

AFFIRMATIVE

INTRODUCTION:

A. The Supreme Court has always been a valuable instrument in the development of the nation to its present position of honor and dignity.

B. The suggestion that the powers of the court be limited is to apply to one power only,—a power which the court has assumed—the power to set aside acts of Congress as unconstitutional.

I. The power to set aside acts of Congress as unconstitutional has been assumed by the Supreme Court without justification.

A. There is no section in the Constitution which gives this power to the court.

B. In the various votes taken in regard to this matter in the Constitutional Convention, it was decided each time that the judicial body should not have this power.

1. This measure was voted upon three times and defeated.

2. A measure proposing to let the Supreme Court consider acts before they were passed was also defeated.

II. A decided evil has grown up out of this power which the Supreme Court has assumed.

A. It has led to a denial of representative government in that it has left the highest authority in an unrepresentative body.

1. When the president vetoes an act, Congress may yet make it a law by repassing it with a two-thirds majority.

2. When an act of Congress has been set aside by the Supreme Court there is no appeal.
3. Altho the Supreme Court is thus the most powerful body in our government, it is the least representative.
   a. Its members are not elected by the people, as are the President and members of Congress.
   b. They are appointed by the President, their salaries may not be reduced and they are generally independent of outside control.
   c. They are usually elderly men, learned in the law but out of touch with the life of the people.

III. Criticism of the Supreme Court is wide-spread.
   A. It extends from the Associate Justices to the Socialist Party which advocates its complete destruction.
   B. Its critics include such men as former President Roosevelt, Senator Borah, La Follette, Senator Johnson and William J. Bryan.
   C. Most of this criticism is leveled at the verdict of five to four which is too nearly even to be decisive.
      1. The Income Tax Law of 1895, the Child Labor Law of 1916 and the District of Columbia Minimum Wage Law of 1918 were declared unconstitutional by a vote of five to four.
      2. In the popular mind there is distrust of a decision so evenly balanced.
      3. The questions thus decided are such momentous ones.
      4. Such a decision violates one of the most firmly established doctrines of constitutional construction —the doctrine of reasonable doubt.
         a. According to John Marshall, a law thought to be unconstitutional should not be declared so if there is a reasonable doubt.

IV. This evil can be obviated by requiring that whenever the Supreme Court declares a law unconstitutional by a five to four decision, Congress should have the final power by a two-thirds vote, to decide whether or not the law is valid.

A. In Congress all special measures require a two-thirds majority.
   1. This includes laws passed over vetoes and the ratification of treaties by the Senate.

B. Laws involving constitutionality should require a two-thirds vote of the Supreme Court, as other special laws require a two-thirds vote of Congress in order to be passed.

C. Legislation similar to this was favored by John Marshall.

D. It would do away with the five to four vote at which most of the popular criticism is directed.

NEGATIVE

INTRODUCTION:

A. The question of the power of the Supreme Court to declare laws unconstitutional was not voted upon by the Constitutional Convention
   1. The statement made by the Affirmative referred to the Council of Revision, composed of the Supreme Court and the Executive.
   2. From statements made by different members from the floor of the Convention it is evident that it was understood that the Supreme Court already had this power.

B. The power of the Supreme Court includes
   1. All cases affecting ambassadors, other public ministers and consuls; all cases of admiralty and maritime jurisdiction; controversies between the United States and any other party, or between states.
   2. Power to interpret the law, including the power to declare legislation unconstitutional.
      a. This power is essential.

I. The power to declare legislation unconstitutional should not be taken from the Supreme Court.

A. Such a step would be out of harmony with the principles upon which this government was founded.
   1. The Constitution was made the supreme law of the land.

2. The power to declare whether or not a law is unconstitutional was imposed by the Constitution upon the Supreme Court.
3. When a law passed by Congress is found to be in conflict with the Constitution, the judges of the Supreme Court have no recourse other than to declare it unconstitutional.

II. If this power is taken from the Supreme Court, it will necessarily rest with Congress, and with unfortunate results.
   A. It will be subject to politics.
      1. The judges of the Supreme Court are appointed for life, they do not have to plan for re-election.
      2. Congressmen spend a great part of their time planning for re-election and to bigger offices.
   B. The justices of the Supreme Court are intellectuals, men who have made a study of constitutional law.
      1. Few of our legislators have ever been in the position to make such study possible.
   C. Legislators, generally speaking, try to conform to what they think is the immediate desire of the majority of their constituents.
      1. This transitory public sentiment is sometimes contrary to the settled determination of the people as fixed in the basic and permanent law, the Constitution.
   D. It is the duty of the Supreme Court to protect the Constitution against encroachment by legislation due to the immediate desires of the moment.

III. To remove this power from the Supreme Court is unnecessary.
   A. The people have a final and last check upon the work of the Supreme Court.
      1. They can amend the Constitution itself.
   B. The reason that the court has such great power is that the people are back of it.
      1. They realize the ability of the Supreme Court.
         a. It would be difficult to select any other group of men who know the Constitution so perfectly.

b. The judges were selected for life so they would not be tied politically.
c. They were chosen geographically rather than politically to represent the country as a whole.

C. The lack of demand for change indicates the sufficiency of the present checks on the power of the Supreme Court.
1. Congress has power to regulate the number of judges.
2. The President and Congress together select the judges.

D. The dangers resulting from a five to four decision of the court has been overestimated.
1. In the past one hundred and thirty-five years of this country's history only nine five to four decisions have been made.
a. Of these nine only two or three have been attacked.
2. During this time forty-one Federal acts have been declared unconstitutional.
a. Of these less than half a dozen have been attacked.

E. The people who have complained, have attacked the decisions not because of the majority by which they were decided, but because the particular legislation involved was disqualified.

IV. To remove this power from the Supreme Court to Congress may be dangerous.

A. It would serve as an entering wedge which might even lead to taking away the total power of the Supreme Court.

LIMITATION OF THE POWERS OF THE SUPREME COURT

SWARTHMORE COLLEGE

versus

TRINITY COLLEGE

PRESIDING OFFICER

Dean Wm. H. Wannamaker

LADIES AND GENTLEMEN: For the fourteenth time Swarthmore and Trinity are meeting in a debate. Heretofore the debates have always been with Trinity speakers on one side and Swarthmore speakers on the other. An innovation is to be made in the debate tonight, which gives to it a special interest. It is at least an innovation in this part of the world. We are asking that you be especially attentive to the debaters and to what they have to say in order that you may help us to decide on the merits of this form of debating, the so-called open-forum form.

I suppose we all agree that the power of a debater to do what he is trying to do is measured by his ability to sway his audience and gain their approval, whether the audience be a jury, before whom he is pleading a case, or a congregation, before whom as preacher he is attempting to present his arguments for the truth that he would have them accept from him, or a gathering of voters who are to decide by ballot whether or not he is to hold an elective office. That, I take it, is the thought back of this new manner of deciding a debate. Furthermore, by the method used we are taking away from the question, or the decision of the question, that element of partisanship that must necessarily play a big part in determining in the minds of the audience which side wins the debate. For instead of having two men represent one college on one side and two men another college on the other side, the debaters

are divided, there being one man from each college on both sides. Consequently, though you are going to be asked as judges to decide this question, you will be relieved of the embarrassment of voting either against your friends or the greater embarrassment of voting against your guests. Whichever way you vote you will be voting for one of your own men and for one of your visitors.

At the end of the debate, then, we are going to ask you please to vote for the side which in your judgment has presented the best argument. The burden of this decision, then, does not rest on three men, as in the old debates, but on every member of the audience. So we are asking you to take a brief time at the close of the arguments to prepare your ballots as to which side in your opinion has won the contention and after you have prepared that ballot we will explain to you how we should like to have it presented to us.

Now, just a word about another part of the debate. Any person in the audience is at liberty to ask a question of any one of the speakers. If there is something connected with this momentous question that you would like to have answered that is not being answered, or if you would like to have a speaker restate a point, you are at liberty to call on him to do so. We ask that no one of you consume more than two minutes in this way and that the same speaker be interrupted not more than three times. He will have at least one minute to reply to each of your questions, and that will not count out of the time allowed him for his speech.

As you will note from the program the query is "Resolved: That the power of the United States Supreme Court should be limited." Representing the Affirmative are Mr. Richard M. Perdew, from Swarthmore and Mr. W. F. Twaddell from Trinity, and representing the Negative, Mr. James F. Price from Swarthmore and Mr. W. L. Clegg from Trinity. The order in which these gentlemen speak will be Mr. W. F. Twaddell, first, Mr. W. L. Clegg, second, Mr. Richard M. Perdew, third, and Mr. James F. Price, fourth.

Since Mr. Twaddell opens the debate and does not have the opportunity in his opening speech to reply to arguments, he will be given the opportunity to make a reply after the other three speakers have completed their speeches. After the fourth speaker has made his speech, Mr. Twaddell will be given five

minutes of the fifteen allowed him. He speaks at first ten minutes. He will be the only one who will make a second speech.

In addition these programs mention the name of Mr. Banks Arendall as time keeper. We could not get the names of all the judges on the program tonight.

If you want to interrupt me with a question I shall be glad to attempt to answer it, provided it has nothing to do with this query.

The first gentleman, then, representing the Affirmative, is Mr. W. F. Twaddell, of Trinity College.

FIRST AFFIRMATIVE

W. F. Twaddell, Trinity

Ladies and Gentlemen: We are discussing this evening the Supreme Court, a body which is one of the most distinguished of American institutions. We who are upholding the Affirmative are arguing in favor of the limitation of the power of the court. We realize that it is a serious measure which we are favoring for the court has always been a valuable instrument in the development of our nation to the position of honor and dignity and distinction which it now holds. We know that we must not forget the vast services rendered by the court and we must not take away from it any of its constitutional powers if by so doing it could not continue its active aid to our country. However, there is one power which the Supreme Court of the United States has assumed that is not provided for in the Constitution, and it is that power which we believe should be limited;—namely, the power to set aside acts of Congress as unconstitutional. We contend that the Supreme Court has no right to use this power and accordingly we suggest as a remedy a limitation of this power of the Supreme Court. Our limitation is one that will retain all the advantages of the present system and at the same time do away with the disadvantages.

In the first place let us take a brief review of the history of this power which the Supreme Court has assumed.

First, let us look at the Constitution itself. The Constitution is the ultimate source of authority in our system and contains a clear description of the powers of each department. In the Constitution there is no section which gives to the Supreme

Court the power to set aside acts of Congress as unconstitutional. The gentlemen of the Negative cannot refer to a single section which gives to the Supreme Court this power. From actual examination of the Constitution itself, defining clearly the powers of each and every department, it is clear that the Supreme Court has no legal right to declare acts of Congress unconstitutional and whatever justification the court may have is assumed.

Next, let us look at the Constitutional Convention of 1787 and see whether it defined the powers of the court. In the first place, we know that the convention did consider this question. Many days were spent in discussion as to whether or not the Supreme Court should be given the power to veto acts of Congress and the matter brought to a vote not less than four times. If the matter was discussed so much that a vote was taken four times it is obvious that it was given consideration. What did the convention decide about it? At every note the convention decided the judicial branch should not have the power to set aside the acts of the legislative branch. At no time did the proposal receive the vote of more than three states. In the early part of June, 1787, the matter was under consideration. After discussion a vote was taken on June 5th. It received the vote of only two states. The question was voted upon again the next day and once again defeated. After this the matter was dropped for a while and not mentioned again until the 21st day of July when it was again put to a vote and the result was found to be the same as before—defeated ten to three. After three defeats those who favored judicial review of legislation realized that there was no chance to get their measure approved. Then they hit upon another plan. They admitted that when Congress had finally passed a law the Supreme Court had no power to set that law aside, but they favored letting the court consider acts before they were passed and make recommendations as to the constitutionality of the proposed law. This was voted upon on the 15th day of August, but even in this diluted form the proposal received only three out of thirteen votes. It is clear, therefore, from a glance at these facts that the founders of the United States government did not intend to give to the judicial department any power to set aside acts passed by the legislative department. The gentlemen of the Negative may quote exceptions to the convention's

opposition. I agree that there were certain members who differed in opinion but the general opinion of the entire convention, the official view, was opposed. The statements which they might present are merely the private views of individual men. The statements mentioned above are the official statements of Constitutional Convention.

In addition to the fact that the Supreme Court has no legal right to exercise this right there is a decided evil which has grown out of this power. The court's assumption of this power has led to a denial of representative government in that it has left the highest authority in an unrepresentative body. It is the heart of democracy that it should be the source of political authority. To provide for the convenient expression of the will of the people we elect men to the Senate and to the House of Representatives, who are to represent us in the business of governing the Nation. Every member of Congress is elected by a direct popular vote and this entirely representative Congress is given the power to make laws for the Nation. It is only natural that Congress is going to make occasional mistakes. Therefore, the convention gave the President power to veto any act of Congress which he considered unwise. But after the President has vetoed an act, Congress may yet make it a law by repassing it with a two-thirds majority. The President is given the power of a suspensive veto, but if two-thirds of Congress still approve an act, it becomes a law in spite of the veto of the President. It is, therefore, clear that the legislative authority is entitled to be the final authority for it is nearest to the people: it is most representative.

When an act of Congress has been set aside by the Supreme Court there is no appeal. When an act is declared unconstitutional by the Supreme Court Congress could repass it by a unanimous vote and it would do no good. The word of the nine justices is the last word because there is no appeal from the court's decision. In this way the court becomes the final and the highest authority. It, therefore, is the most powerful authority in our government by virtue of the use of this power.

Yet, although the Supreme Court is the most powerful body in our government, it is still the least representative. Its nine members are not elected by the people. They are appointed by the President. They do not serve for a limited time; but they hold office for life. Their salaries may not be reduced,

and they are generally independent of outside control. The justices are all old men, who are learned in the law but inevitably out of touch with the life of the people. And yet this body of men, aloof from life and changing living conditions, away from the struggles and problems and battles of life, has power to regulate the lives of millions of American men and women. Remember, the court has gained this preeminence by a power which is not even recognized by the Constitution.

Let me give you a brief summary. In the first place, I have shown you that the power is without legal justification in the Constitution, and that the Constitutional Convention was opposed to the assumption of this power. This situation has given rise to a need for a remedy. The first need is for some rule by which the court can be guided in cases where it must review acts of the legislative department. Furthermore, since this power has been unlimited hitherto the least representative body in our government has been the most powerful. Such a condition as this calls for a remedy. My colleague will give you as a remedy for these evils a logical, necessary and adequate limitation.

FIRST NEGATIVE

W. L. Clegg, Trinity

Mr. President, Ladies and Gentlemen: It is the desire of the Negative that the issues of this debate be clear and definite. The Affirmative has made a proposition that involves certain things and by necessity does not involve other things. I wish to point out at the beginning some of the things that the gentleman just seated has told you, which, if not cleared, may serve to becloud your minds. He has made the statement that on several occasions the question of the power we are discussing was brought before the Constitutional Convention. The statement he has made refers to a Council of Revision that had to do with the Supreme Court and the Executive. The question of the power of the Supreme Court was not brought before the Constitutional Convention. I take issue with him on the ground that seventeen men declared on the floor of the Constitutional Convention that the Supreme Court already had the power to declare a law unconstitutional. I shall quote something in that regard. On the floor of the Convention of 1787 Gary of Massachusetts asserted that the judicial function of expounding

statutes "involved a power of deciding on their constitutionality." For this reason he opposed the Council of Revision. King of New York said, "They (the judges) will no doubt stop the operation of such as shall appear repugnant to the Constitution." Madison, one of the strongest men in the convention, said, "A law violating a constitution established by the people themselves, would be considered by the judges as null and void. "Ladies and Gentlemen, you will find these quotations in Farrand's record of the Constitutional Convention." So the point the gentleman just made was not in regard to the Supreme Court, but in regard to a Council of Revision, which was an entirely different thing.

Now, before we can determine whether the power of the Supreme Court should be limited, we must determine what the powers are, then we may see whether this power should be limited.

In the first place, the authority of the Supreme Court extends to all cases affecting ambassadors, other public ministers and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; between a citizen of one state and another state; and between a state and the United States. Not even the most radical leaders of today object to this power. No doubt the gentlemen of the Affirmative do not object to this power.

In the next place, the Supreme Court has the power to interpret the law. Notice, Ladies and Gentlemen, I say power to interpret the law, not to make law; and I challenge the gentlemen of the Affirmative to point out a single instance where the Supreme Court has made a law or by any action of its own has changed the wording of a law. Interpretation of the law is necessary. Words are meaningless unless they are defined and interpreted. Words in one connection may mean, and often do mean, entirely different things under different circumstances and conditions. We see then that interpretation of the law is absolutely necessary.

Now the next question that arises wherein we part company with the gentlemen of the Affirmative is their proposal to take from the Supreme Court, in whole or in part, the power to declare laws unconstitutional. They say that this power should be taken from the Supreme Court. We maintain that it should not, and we believe it should not because such a step would be

out of harmony with the principles upon which this government was founded. Let us see if this is not the case.

In the early days of this country our people were under the power of England. They decided—to use the words in the Declaration of Independence—that "All men are indowed by their Creator with certain inalienable rights; that among these rights are Life, Liberty, and the Pursuit of Happiness; that to secure these rights, governments are instituted among men, gaining their just powers from the consent of the governed." They gained that independence; and when they had gained it, they were faced with the difficult problem of forming a government.

It is not denied that the promoters of our Constitution really faced a difficult problem when they went about the task of forming a government and principles upon which that government was to stand. How was this done? Can the gentlemen of the Affirmative deny that it was done in a thoroughly democratic fashion? In forming a government our leaders realized that there were certain rights that individuals and states should have and also that there should be imposed upon individuals and states certain limitations. The people acted upon the suggestion of these leaders and sent representatives to formulate such a document. This was submitted to the people and they accepted this fundamental, basic law, the Constitution of the United States.

In view of the fact that the Constitution protects certain rights and imposes certain limitations, it is obvious that these powers and limitations should be obeyed. In the words of John Marshall, as expressed in his famous opinion in the case of Marbury *vs.* Madison, "To what purpose are powers limited, and to what purpose is that limitation committed to writing, if these limits may, at any time, be passed by those intended to be restrained? The distinction between a government with limited and unlimited powers is abolished if those limits do not confine those on whom they are imposed, and if acts prohibited and acts allowed are of equal obligation. It is a proposition too plain to be contested that the Constitution controls any legislative act repugnant to it, or that the legislature may alter the Constitution by an ordinary act." Do you not see, Ladies and Gentlemen, that between these alternatives there is no middle ground? Don't you see that the Constitution is either a superior, paramount law, unchangeable by ordinary means, or it

is on the level with ordinary legislative acts, and like these acts may be altered when the legislature may choose to alter it? It is obvious, then, that the Constitution must be protected and obeyed.

Now, the question arises; does the Constitution provide this means? And here I wish to answer specifically the argument of my opponent. We of the Negative maintain that this power is not only placed with the Supreme Court, but also *imposed* upon the Supreme Court by the Constitution. Under what authority, you ask, do we make this contention? In Article 6 of the Constitution you will find the following words, "All executive and judicial officers shall be bound by oath to support this Constitution." This was accepted as part of the Constitution by the thirteen original states and by every state that has joined the union from that good day until this.

Suppose Congress passes an act repugnant to the Constitution (as it has done). For instance, the Constitution specifically says that no person shall be convicted of treason except on the testimony of two witnesses for the same overt act or upon confession in open court. Suppose Congress should pass an act saying a man could be convicted of treason on the testimony of one witness. Under whose authority is it to protect the rights of the individual convicted under this new rule of Congress? Does it not fall upon the judiciary? There would be nothing left for them to do but to declare such an act unconstitutional. How absurd it is to say that the Supreme Court has usurped this power when its members have been made to swear on their honor as men and in the presence of witnesses and before Almighty God that they will support the Constitution. Yet the gentlemen of the Affirmative say that they have usurped this power.

If the proposition made by the gentlemen of the Affirmative should make such an impression on the minds of the people of this country that it should be carried out, what would be the result? If a power is taken from one department of our government, it must of necessity increase the power of some other department. Our government is so organized, the conditions, the traditions are such that if this power is taken from the Supreme Court, it will rest with our Congress. Let us see which is better.

On the one hand the Supreme Court is aloof from poli-

tics. The Justices of the Supreme Court are appointed for life, theirs is a permanent position. They do not have to plan in order to be reelected. On the other hand, you know as well as I, Ladies and Gentlemen, that our Congress is the central arena of politics. At least one-third of the time of its members is spent in getting reelected. Our congressmen are forever looking for something larger and bigger in the way of an office. On the one hand, the justices of the Supreme Court are the intellectuals of the age, the thinkers of the age, they are men who have made a study of constitutional law. On the other hand, what about the majority of our legislators? Do you put any significance to the statement of Albert A. Beveridge when he said, "Some have even questioned whether or not all of our senators and representatives have read the Constitution from beginning to end, much less made a study of it?" Listen to something else Mr. Beveridge says, "Generally speaking our legislators try to conform to what they think is the immediate desire of the majority of their constituents. This is not only natural; perhaps it is right, but this transient public sentiment which our legislators reflect may be, and sometimes is, contrary to the settled determination of the people as fixed in the people's basic and permanent law, the Constitution." The very difficulty in amending the Constitution exists in the will of the people themselves. The opponents of prohibition thought they had effectively killed the prohibition amendment by requiring it to be ratified in seven years. As a matter of fact it was ratified in less than two years. If the people of the United States were sure they wanted the Constitution more easily amended, they could adopt an amendment simplifying the process. In other words, the point Mr. Beveridge so effectively makes is just this: the Constitution is just as much the will of the people as the congressional statute. The Constitution is the final, settled will. It is the duty of the Supreme Court to protect this basic will against encroachment by the immediate transient caprice. This is the power possessed by the Supreme Court, and this is the power we maintain should not be limited.

Let us see just what the gentlemen of the Affirmative mean when they say the power of the Supreme Court should be limited. They say take from one department of our government that is free from politics a power and place it with the

department that is the very essence of politics. They say take away from men who are students, men who are thinkers, men who have made a study of constitutional law, a power and place it with men, many of whom never were lawyers. Take away from men, they say, who have a permanent position, men who do not have to plan to be reelected, a power and place it with men who have a temporary position, men who must be confronted with things other than constitutionality of laws. Yes, the gentlemen of the Affirmative would take from men who consider the basic, the underlying principles, men who consider the welfare of the country as a whole, a power and place it with men elected in the heat of a political frenzy, men who are pledged beforehand to support the needs of a local community. I leave it to you, Ladies and Gentlemen, which of these two departments of our government do you think is better qualified to hold this power?

SECOND AFFIRMATIVE

Richard M. Perdew, Swarthmore

Ladies and Gentlemen: I heard a little story the other day about a professor of the University of North Carolina. I am not going to mention his name, for some of you might know him. This professor was riding on the train when a Salvation Army captain sat down behind him, a man on fire for the salvation of souls. He leaned over to the professor and said with a broken pronunciation, "Brother, are you in favor of Christianity?" The professor turned sharply about and said "Hell, No." This rather squelched the Salvation Army Captain. He got up and went to the front of the car to try his luck on another gentleman. He was more successful, and encouraged, he returned to his seat behind the professor. Again he repeated, his question, "Brother, are you in favor of Christianity?" The professor turned about and said, "What is that?" He repeated, "Are you in favor of Christianity?" The professor answered promptly, "Certainly I am. I thought you said, 'Am I in favor of Trinity?'"

I wish all of you could have been at Swarthmore in October and have heard the three men from Oxford debate. Their fine style, their subtle humor, their easiness upon the platform,

their power to gain control of the minds of the audience was a thing very interesting and very helpful to us. I remember particularly a remark made by one of the men, a remark which seemed at the time very witty to me, and which went well upon the platform. You know, co-education is rather a novel thing to them. He paid Swarthmore a pretty compliment when he said he considered it the finest system since the time of the Garden of Eden. I was interested, in coming to Trinity, to find what status co-education has here. At Swarthmore, we eat in the same dining room at mixed tables. I find it is not the custom here. It occurred to me perhaps the reason is that there was no sin in the Garden of Eden until they started eating together.

As you can see from the program, this is the fourteenth of the forensic contests between Trinity and Swarthmore. It was my pleasure to be in one last year and to be a loser. Perhaps you can see good reason in the suggestion that the open forum style be adopted, for in that case, both schools are bound to have one man, at least, victorious, and so it is a much happier combination from Swarthmore's standpoint.

I will refer to the remarks of the speaker who has preceded me a little later in my own remarks upon the subject.

I need hardly bring before you at this time proof of the timeliness of the question. There is criticism throughout the nation against the Supreme Court, from the associate justices down to the Socialist Party, which advocates its complete destruction, and includes such men as former President Roosevelt, Senator Borah, La Follette, Senator Johnson, and even William Jennings Bryan, who has the idea that the Supreme Court has been monkeying too much with legislation.

If we examine the criticism of the court it seems most of it is directed to the verdict of five to four, which, we declare, is too nearly even to be decisive. We recall the first Child Labor law, that of 1916, the Income Tax decision of 1895, the District of Columbia Minimum Wage law of 1918. It is not difficult to understand this criticism. In the popular mind there is distrust of a decision so evenly balanced. It is a case of doubting the wisdom of five judges against four. When a baseball game is won by a score of five to ten, there is little doubt which was the better team, but when the score is seven to eight, there is great room for doubt as to the best team.

When the opinion is so evenly divided, people have great room for questioning, or criticising the court in exercising such vast power. They decide such momentous questions. Roosevelt said, "Five men in the retirement of the judicial chamber can control the President, Congress and one hundred and ten million people."

This is also expressed as the doctrine of reasonable doubt. John Marshall, the greatest jurist America has ever known, said that in case any law was thought to be unconstitutional it should not be declared so, if there was a reasonable doubt. Mr. Cushman, in the Michigan Law Review (1921) has expressed this same sentiment. He said, "When the Supreme Court invalidates a statute by such a narrow margin it violates one of the most firmly established doctrines of constitutional construction—the doctrine of reasonable doubt."

I might mention as an example the Child Labor law of 1916. Congress passed this measure upon the power granted to it to regulate interstate commerce, but the Supreme Court, by a decision of five to four, declared it unconstitutional. There is upon the statute books a law regulating the manufacture of phosphorus matches, not that they themselves are harmful, but for those who are working in the factories producing them—they are exposed to the great danger of contracting a terrible disease of the jaw bone. Congress, to protect the producers, passed a law. The same is true with reference to the Child Labor law. The products themselves were harmless, but their production was very harmful to those children who worked long hours. Here I might stop to put up an emotional appeal for those children from ten to fifteen whose lives are being ground into dollars. But that is both unnecessary and unwise.

I wish to call your attention to the fact that this measure has passed the judiciary committees of the House of Representatives and Senate before it became a statute. These legal minds had passed upon its constitutionality. My friend of the opposite persuasion says the Supreme Court never legislates, but I maintain that in ruling the Child Labor law unconstitutional and not the Phosphorus Match law, they are legislating because they are giving a different interpretation.

I wish to call your attention to another fact. That is, that in Congress, all special measures require a two-thirds majori-

ty. I need only mention such measures as the passage over vetoes and the ratification of treaties by the Senate. Measures before the Supreme Court involving constitutionality are special measures just the same as a law vetoed by the President becomes a special measure. I maintain these laws should require a two-thirds majority of the Supreme Court as other special cases require a two-thirds vote of Congress, namely, the vote should be six to three instead of five to four before a law can be declared invalid. The reason why this was not provided for in the beginning is because the framers of the Constitution little intended the Supreme Court should have this power. It is not surprising this omission is to be found.

I make this proposal: that whenever the Supreme Court rules, by a five to four decision, that a law is not constitutional, Congress should have the final power, by a two-thirds vote, to decide whether or not the law is valid.

I wish to again refer to Mr. John Marshall, for he favored a measure similar to this. He favored an "appellate jurisdiction of the legislature." He believed in allowing cases to be reversed by Congress if the legal opinions of the court were considered unsound. F. A. Maynard, Ex-Attorney General of Michigan, in the American Law Review (1920) says of our plan: "It would be a lasting benefit and for the good of all."

The gentleman who differs with me and who has just left the floor, gave you quite an eloquent history of the founding of our government, and particularly of our Constitution and Supreme Court. I give him credit for a worthy presentation. However, he is barking up the wrong tree. We have not made any proposal that Congress shall have the right to veto by a vote of two-thirds. Our proposal is that whenever the Supreme Court cannot come to a more decisive conclusion than five to four, then Congress shall have the power to make a final decision.

This plan would have sufficient effect. In the first place, there would be no more five to four decisions, and this popular criticism would be silenced, as it is directed against the five to four decision.

It is not difficult for us to realize, also, what the action of Congress would have been in case this plan had been in force when the Child Labor law was before the nation. Congress, we are sure, would have passed such needed legislation.

Take the case of the Income Tax law. I might go into details. This had been in force during the Civil War. In 1895 the Supreme Court declared a similar law unconstitutional. At that time, there was one justice who was sick. He left his sick bed to come to hear the case. The vote was four to four. He was in favor of the constitutionality of that law, but when the decision was taken it was five to four against it. One judge had changed overnight, swinging the pendulum from being in favor, to being against the constitutionality of the law. We can be sure that Congress would not have closed its eyes to the need of such legislation.

Allow me to try to make that more clear. The simple fact is that if a measure comes up before the Supreme Court, and is plainly unconstitutional, they are going to vote by more than two-thirds that it is unconstitutional. We propose, then, if the Supreme Court is so nearly divided upon a question, then Congress shall have the final power, because in cases where there is such doubt and division of opinion there will be no harm done to our Constitution or the Supreme Court, to allow the matter to be decided by Congress, a body representative of the people. That is our plan, whereby we seek to remedy the popular criticism and seek to make our Supreme Court conform to the rest of our government.

SECOND NEGATIVE

James F. Price, Swarthmore

Ladies and Gentlemen: We of the Negative do not believe that this power of the Supreme Court should be limited for we feel that this is unnecessary, that the Supreme Court is already limited and that the plan which the Affirmative proposes will prove imperfect and that it will lead to untold difficulties. In fact, through the process of amendment the people of the United States have a final and last check upon the Supreme Court; for if not satisfied they can go to the Constitution itself, change the wording of the Constitution, and thereby get any law they wish passed.

May I mention a few miscellaneous remarks, especially on the plans proposed by Mr. Perdew. When I first heard it, it seemed reasonable but after considering it I realized that it was not.

I remember an incident when Mr. Jones was telling some people why he was so suddenly divorced from his wife. "It was this way," he said, "when I was first married she used to call me 'kitten.' I wondered why. In about a week I opened my eyes, saw what I had married and divorced her. I realized she had called me 'kitten' because I had my eyes shut." I am afraid that is what the people of the United States are being called by the proposers of the change. They would call us kittens. As soon as we adopt some change we would probably realize our mistake and want to get divorced from the bad proposition.

Back to the point of its being unnecessary. I was struck by the fact that the first speaker of the Affirmative side dealt a great deal with the fact that the judges were unrepresentative, that they did not represent the nation as a whole. I really believe that the fact that the Supreme Court has such a great power is that the people are back of it. They realize the ability of the Supreme Court; they realize that they have been appointed because of duties done in the past, because they have shown their metal, and they are supporting them because they are showing their stuff now. These nine judges are men who have studied law and have studied it in all its versions from A to Z and in particular they know the Constitution. It would be hard to select any other group of men which knows the Constitution so perfectly. They were selected for life so that they could cut off political strings, so that they would not be tied up, they would not need to look after themselves. In other words, they could give thoughtful, unprejudiced decisions on all questions. They have the welfare of the Nation before them and they are aware of the demands of the age and the questions arising in this country. They are appointed more geographically than politically, in order to represent the country as a whole. I wish to take the words from my friend on the Affirmative himself. He says they are independent from outside control. A strong Negative point. They are independent of politics, of all outside influences they are representing the nation by their brains, and they are not influenced by those influences which might influence Congress. The lack of demand for change indicates the sufficiency of the present checks. I wish to mention a few. In the first place, Congress has the power to regulate the number of judges sent to the Supreme Court and by

decreasing or increasing them they can change the decision of the Supreme Court, thereby making it subject to their control. It is also true that the President and Congress select the judges. If we are not satisfied with the type of man who is judge we should tell the President and Congress about it and let them take more time in the selection of these judges. And so we find that the people, are back of and supporting the Supreme Court.

An illustration came to my mind this afternoon on this point. It is a minor illustration. In the try out for this debate at Swarthmore there were about sixteen men tried out. Of these, fourteen tried on the Negative and two for the Affirmative. I find six or seven tried at Trinity and only one was for the Affirmative. The people are supporting the Supreme Court, the people are back of it. My friend perhaps says that when it was known he was going to try out for the Affirmative, none of the men, realizing his ability as a debater, would offer to take the Affirmative. It happens that Mr. Twaddell tried out on the Negative side when they gave their trial speeches.

As to the facts of this proposition that Mr. Perdew makes. I wish to say that the American people have been too much affected by this five to four proposition. They have been told it is a great danger, that something dangerous is overhanging them and it is really remarkable how big a point they have made out of such a little thing. In the past one hundred and thirty-five years of this country there have been only nine five to four decisions. Of these nine there have not been more than two or three which the most radical opponents have attacked. There have been forty-one of the Federal acts declared unconstitutional. Of this total number the Affirmative cannot point to half a dozen attacked by the radicals of the court. Only half a dozen are being questioned at all and these have questions on both sides. It also might be interesting to know that in the first seventy-five years of this country's history, people were attacking the court because it was inclined to support Congress—I might mention the Federal Bank Act Case and the Slave Act. In the first part of our history the court was attacked for supporting Congress and now people are attacking the Supreme Court for not supporting Congress. It should not be left to Congress, a representative of the people, to decide or have the veto power of this question.

It is interesting to note that the people who have raised the kick have not raised it on the five to four point but because the Supreme Court has declared an act unconstitutional at all. They are not kicking because of the five to four proposition. They are kicking because it was disqualified. The first Child Labor law was declared unconstitutional by a five to four vote, but later was declared unconstitutional by eight to one. It was attacked fully as greatly. In other words, it is not the number of the decision, whether five to four, six to three, eight to one or unanimous. The opposition will attack if they wish. I think one outstanding example is the Dred Scott Act, which was declared unconstitutional by a vote of five to two. It has been attacked by the people more than any other decision unless maybe the Child Labor Act. It shows any question raised on the five to four vote is really begging the question because there is no problem from the five to four decision. Then I find that Mr. Perdew refers to such radicals as Senator Borah and Senator La Follette. If a vote is cast six to three then he is going to use the power of Congress as a veto power. We can use arguments against both of these. If we gave Congress veto power it would be possible for Congress to destroy the three fundamental organs of our government, namely, the judicial, executive and the states' rights. It is also true, as pointed out by my colleague, that Congress is ruled by such practices as lobbying.

It reminds me, when I think of these plans, that I was walking through a graveyard when I read the following epitaph: "I was well. I took medicine. Here I lie." We are well. If we take medicine in such form as our honorable opponents suggest we would soon be lying, too.

In considering the question our last speaker told us that we are barking up the wrong tree. I am afraid they are if they spend a great deal of time finding fault with the Supreme Court. I cannot see the great danger in the Supreme Court, any great wrong in the Supreme Court. Surely they are not spending all these many hours of preparation on this subject merely to get up and hit half a dozen decisions made by the Supreme Court. In other words, they are using some small reasons to serve perhaps as an entering wedge, thinking a small plan, such as Mr. Perdew proposes, may serve as an entering wedge. He is really pussy-footing along, he is not

proposing a radical plan. He is proposing adopting or using an entering wedge, which might lead to—well, it is hard to tell—perhaps they are looking forward some day to having the total power of the Supreme Court taken away. They are not satisfied with our Federal government. They want us made into an England, or some other radical change made, not all at once. They surely are not proposing some sort of utopia where everything will be perfect, and I wonder whether or not the next one hundred and thirty-five years will not bring out more than half a dozen decisions against which they can say anything. I want you to remember that we, the American people, have a way of getting around any act which the Supreme Court makes. If we are not satisfied with the decision it makes we can look at the Constitution, we can change the Constitution by means of amendment and thereby we have the final and adequate check on the Supreme Court, and it is a fact that the American people are awakening and realizing this to be the case. They have used the process of amendment four different times in the past few years. May we use it in the future and not try to change to a radical plan, which though not being radical now will lead to something radical in the future.

AFFIRMATIVE REBUTTAL

W. F. Twaddell, Trinity

Ladies and Gentlemen: Mr. Price, who has just taken his seat, has attacked our side of the argument very ferociously for one reason, and he makes particular capital of the point, that the Affirmative speaker tried out on the Negative side. I admit that it is true. When I knew nothing about the subject I thought the Negative was right just as he thinks it is right, but after I studied it and spent hours of cogitation I realized there is only one side, the side which he has not yet touched.

Let me call your attention to one particularly weak point. He has said that the limitation which we propose is not radical but is an opening wedge. We are not talking about the big end of the wedge. We are discussing the limitation which we propose. He was talking about the big end of the wedge. We propose a specific limitation. The gentleman himself has said that this limitation is not objectionable. He has laid this be-

fore you in the form that Congress can change the Constitution by passing some unconstitutional law. Congress has no right to change the Constitution by a five to four vote. If Congress passes anything in conflict to the Constitution the Supreme Court justices are going to have sense enough to know it. He has told us Congress has already the power to change the court's decisions by changing the number of justices. What is that but limiting the power of the Supreme Court? That is what we are discussing, you remember. He told us the Constitution is as much the will of the people as any act of Congress. The Constitution was made in 1787. At that time the stage coach was the generally approved method of locomotion. Today mechanical inventions have done away with the stage coach and there is not much question as to whether this gentleman travelled to Durham by a pullman or a stage coach. The Constitution may have been the will of the people at one time but at present it is as registered by Congress, not as registered by the Constitution.

The second speaker made this point: the Supreme Court is independent of outside control. It is representative of the people. That is inconsistent. When representative of another person it must itself be responsible. Congress is responsible to the people. If Congress does not adequately represent the people, the congressmen can be withdrawn. If Congress is rendered absolutely independent of the people it would not be representative. The Supreme Court cannot possibly be representative.

I wish to remind you that the gentlemen have not yet given you the slightest constitutional justification. It is an act of great charity that we allow the court to exercise this power. We are merely giving them that much. He has mentioned one point in which he tries to bring out that judicial officials are obliged to uphold the Constitution. Of course, they are, but so are the representatives, who cannot veto. Again barking up the wrong tree.

The gentleman who just preceded me says there have only been nine decisions handed down by five to four. We agree that this is true, but how about the disposition of these decisions? More than five have been decided since 1918. Only four in the entire history of the republic were decided before 1918. In one-twenty-seventh of the history of our country more

than half of the decisions of unconstitutionality have been handed down. This is a growing tendency on the part of the Supreme Court. It is an opening wedge.

FLOOR: I would like to ask Mr. Twaddell or Mr. Perdew to show us exactly how requiring a six to three vote instead of five to four is a limitation on the power of the Supreme Court. I have no doubt but that they can answer it but I should like to hear the answer.

MR. TWADDELL: This really is a typical illustration for this reason: under the present system the Supreme Court can pass an act by five to four. Take this case: five to four in favor of declaring an act unconstitutional. Under the present system the Supreme Court has a power to declare it unconstitutional. Under our system it would not have the power to declare it unconstitutional. The Supreme Court has a power which it would not have. Has that power been limited or has it not?

MR. CLEGG: In regard to the six to three vote. That is a question of procedure. A question of procedure has nothing to do with a limitation of power. Suppose a law is declared unconstitutional by a five to four vote, it would not be declared unconstitutional by six to four, but the point we make in five declaring it unconstitutional, the Supreme Court says a law is unconstitutional just as a jury says a man is guilty. They do not say one justice says this, they say the Supreme Court finds this law unconstitutional. Let's see another thing about the five to four proposition. It is assumed by the Supreme Court, borne out by time, that a law must be clearly unconstitutional before being so declared. Say five men see clearly it is unconstitutional. The other four say there is some doubt about the constitutionality, there is something about the thing that does not seem constitutional, but we do not see it clearly, therefore, we will have to vote to let it go by. The five men see its unconstitutionality clearly, the other men do not see it quite so clearly, they have their doubts. They say a six to three vote would do away with the doubt. There is an election coming off. Suppose Coolidge and McAdoo are candidates, suppose there are nine million votes cast, Coolidge gets five, McAdoo four. Is there any doubt about who is elected? Of course, not. But, Ladies and Gentlemen, five million out of nine is no greater majority than five out of nine. In either case there is five out of nine. You can see that about the proposition in a five to four proposi-

tion. A law must be clearly unconstitutional before so declared, and the four who say it is not do not see it quite so clearly as the others.

MR. PERDEW: I might say a few words. He has made the point it is not five men who hand down a decision but it is the entire court. It is the same way in Congress. When Congress decides by a two-thirds majority vote, it is Congress in its entirety which makes that decision, yet that does not argue that requiring a two-thirds vote instead of a majority vote is not a limitation. He has called it purely a method of procedure, and he has said in supporting it, that when the justices who dissent do so, they do so on the basis of not being quite sure about the measure; they would a little rather not affix their names to the Affirmative side. I could quote several of the dissenting opinions of the judges which show clearly they are not men in doubt, but men who know decisively what they think of the measure. They are not voting "on the fence," as it were. I might quote Justice Harlan in the case of Lochner *vs.* New York, involving the bakery law. "Whether or not this be wise legislation, it is not the province of the court to inquire." I might also quote Mr. Holmes in a different opinion. He dissented, and says this: "This case is decided upon an economic theory which a large part of the country does not entertain." He saw the matter was on the wrong basis and came out clearly and said so. It clearly, as my friend of Trinity has said, places a limitation upon the court, whereby in the present system it could declare a law unconstitutional, but under our plan could not. I can see nothing but that that is a limitation.

FLOOR: I should like to ask Mr. Price a question. If it had happened that only five men had tried out for the Negative and four for the Affirmative would Mr. Price have used it as an illustration?

MR. PRICE: I am afraid that is begging the question, but I would not have used it as an argument for the simple reason that there would then seem to be some support on the idea that the power of the Supreme Court should be limited; but, as the actual facts show, there was not much support on the side that the power should be limited. Taking the actual facts, of course, I see the idea of the gentleman as to cross examining me and getting me in a place where I say four men really have some

weight on the subject and have some really definite ideas. Well I might say that I could still use the point, there being a majority, but it would not be as important, not so outstanding. I used the point because it was outstanding. One man at Trinity and two at Swarthmore trying for this side brought out my point that the general thinking class of the people of the United States were against limiting the power of the Supreme Court.

Floor: I should like to ask for a little information. The Affirmative said the original discussion as to the power of the Supreme Court with regard to declaring an act unconstitutional was discussed four times in the conventions. The Negative said it was a Council of Revision that was discussed. Just as a matter of information I would like to know which is correct.

Mr. Twaddell: The question is well taken. The point is as to the Council of Revision. What is it? Is it identical with the Supreme Court? The Council of Revision was to consist of the Supreme Court plus the President. This Council of Revision was to have the power to veto acts of Congress. The Constitution gives the President that power but not the Supreme Court. The obvious thing is that the Supreme Court got left out in the scuffle.

Mr. Clegg: A proposition was never made to the Constitutional Convention that the Supreme Court should have this power. It was generally understood that it should have and I can quote Mr. Chas. A. Beard where seventeen men opposed the Council of Revision, opposing it because the Supreme Court already had the power and to form a council of revision would be a double power. Some of the men who opposed judicial control were men who opposed the veto power on the part of the President and the Council of Revision. The Supreme Court already had this power. The Council of Revision had this purpose: a law was to go before the Council of Revision to see if it is constitutional, when there is to be a constitutional question involved, before it gets to the Supreme Court. The Supreme Court assumes a law is constitutional until somebody is dissatisfied. On that basis you can see a Council of Revision and the power of the Supreme Court are two separate things, and the main reason it was not passed was because the Supreme Court already had the power, and what was the use having two parts of the government with the same power?

MR. TWADDELL: I have here a rather interesting book—the Constitution of the United States. The gentleman just seated had just told you the reason was the Supreme Court already had the power to declare acts of Congress unconstitutional. I would like for him to show me a thing in the Constitution where the Supreme Court has this power.

MR. CLEGG: I have pointed out in my original speech that the judicial body was bound by oath to support the Constitution. Suppose an act is passed which is unconstitutional, when they are sworn to uphold the Constitution are we going to expect the justices of the Supreme Court to violate their oath? That question is obvious, that the Supreme Court has this power, that they are bound by oath and that leading men of the Constitutional Conventions upheld this power. I want to challenge the gentlemen: for every one who said the Supreme Court does not have the power I will quote three who said they did have the power.

MR. TWADDELL: The gentleman has given you for the entire basis the fact that the justices of the United States are sworn to uphold the Constitution. He has admitted beside that one single fact there is no justification for the court's assuming this power. I believe I am correct in saying every county sheriff takes the same oath. Does he have the power to declare an act unconstitutional?

FLOOR: I should like to ask for a reading of the Constitution which provides that it shall go before the Supreme Court. I have not heard the words of the Constitution. Where does it get that authority?

MR. CLEGG: In Article 6 of the Constitution the words that I quoted will be found. The Constitution says in Article III. that the Supreme Court shall decide on all cases of equity and law, and lower courts are established. If a person does not get satisfaction he can go to the higher court. The highest is the Supreme Court, which considers the constitutionality of a law. While I am on the floor I might say that the gentleman who has just sat down said we based all the argument on swearing they must uphold the law. Such is not the case. I pointed out the majority of the men, especially the leaders, said on the floor of the Constitutional Conventions that the Supreme Court would have this power. If this man understood his record by Farron how are we going to say they did not?

MR. PRICE: I think the question has gone quite extensively as to whether or not it was in the Constitution. But whether or not it was in the Constitution, an act of Congress, passed in 1789, framed or dealt with the powers of the court, the building up and forming of the courts, and, quoting from Haynes, "This act undoubtedly recognized the right as belonging to the Supreme Court to declare an act of Congress invalid." This act recognized the right as belonging to the Supreme Court to decide an act of Congress invalid. Upon this point Professor Beard says: "It surely is not unreasonable to assume that the men who established this rule believed that the Supreme Court could declare acts of Congress unconstitutional independently of decisions in lower state courts. Indeed it would seem absurd to assume that an act of Congress might be amended by a state court with the approval of the Supreme Court, but not by the Supreme Court directly."

Now, another point is this: declaring a law unconstitutional has been accepted ever since our nation has been formed. It has had the full support of the people. Whether or not it has been in the Constitution, it has been assumed by the Supreme Court, it has been accepted and they have raised no objections except may be the labor unions, the American labor organizations, socialists and radicals, such as Borah and La Follette. The most radical class are the opposers, and the real thinkers and the liberal class have stood by it even if it was an assuming of the power by the Supreme Court. It has been accepted for the past one hundred and thirty-five years and has been backed by the people and is backed up today.

FLOOR: The gentlemen of the Affirmative have stated there is nothing in the Constitution that gives the Supreme Court the right to veto legislation. I should like to ask if there is any reason why that should be there. It is given appellate jurisdiction. If there is doubt of the constitutionality of a law passed by Congress it is supposed somebody in the country is going to be bold enough to say that it is not constitutional—somebody bold enough to bring up the case. When taken to a Federal court what can it do but decide on the law? Of course, it will be referred to the Supreme Court and doesn't the Supreme Court have to say whether the law is constitutional?

MR. TWADDELL: The speaker asks why this power should be specifically given in the Constitution. The reason is that it

contains the powers of all departments. The Constitution contains all the powers of the Supreme Court, and, therefore, should be set out in the Constitution. It should be set forth in specific words and not in any roundabout method.

VOTE TAKEN

DR. WANNAMAKER: The vote was approximately forty-four for the Affirmative and one hundred and eighty-five for the Negative.

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CHAPTER V

THE LEAGUE OF NATIONS

UNIVERSITY OF TEXAS

versus

UNIVERSITY OF ARKANSAS

RESOLVED: *That the United States should join the League of Nations.*

This is a report of a debate between representatives of the University of Texas and the University of Arkansas, held at Austin, Texas, April 4, 1924. The decision of the judges was unanimously in favor of the Affirmative, which was upheld by the representatives of the University of Texas. The report of the debate was received thru the courtesy of the Secretary of the Oratorical Association of the University of Texas, also a list of the references used in preparing the debate. This list of references served as a basis for the acccompanying bibliography.

BRIEF

THE LEAGUE OF NATIONS

AFFIRMATIVE

INTRODUCTION:

A. On June 28, 1919 the Treaty of Versailles was signed with the Covenant of the League of Nations as an integral part thereof.
   1. Both Treaty and Covenant failed of ratification by the Senate of the United States.

B. The league is now an active organization with fifty-four nations as members, an Assembly, an Executive Committee, called the Council, and a permanent Secretariat.
   1. Every important nation of the world is a member, with the exception of Germany, Mexico, Soviet Russia, Turkey and the United States.

C. It is proposed that the United States should now become a member of the League of Nations.

I. The United States cannot afford to continue a policy of isolation from the rest of the world.

   A. This policy is ruining us economically.
      1. It is destroying the buying power of Europe.
         a. It reduces the foreign market for our farmers and manufacturers upon which our commercial prosperity depends.
      2. The present prostration of our farming industry is plainly due to the poverty and confusion of Europe and its inability to purchase the food and clothing which it needs.
      3. The bankers of our country realize this and have called for a policy of cooperation which will enable Europe to rehabilitate herself.

II. At the present time the League of Nations offers the best and only possible way of securing world peace.

A. The necessary delay in going to war to which the members commit themselves will usually prevent any war from taking place.

1. There will be an opportunity for war passions to cool and for weighing the merits and significance of any quarrel against the horrors and cost of war.

B. The League has power to formulate proposals for the limitation of armaments.

C. It makes possible a world-wide social and economic boycott against any member of the League proposing to break the Covenant.

D. By the enforcement of Article X the League can preserve against external aggression the territorial integrity and existing political independence of all members.

1. This would not involve the United States in war against its inclinations.

a. If Article X were violated, it would take a unanimous vote of the Council to declare war and the United States would have power of veto.

E. The League has already brought to a satisfactory settlement, four situations which might easily have developed into wars.

1. The altercation between Sweden and Finland over the Aaland Islands.

2. The boundary dispute between Poland and Lithuania.

3. The dispute between Germany and Poland over the partition of Upper Silesia.

4. The boundary dispute between Jugo-Slavia and Albania.

III. The League of Nations has been beneficial in many other ways as well as in the prevention of war.

A. It was effective in returning soldiers to their homes at the close of the war, and in relieving the distress of Russian exiles in western Europe.

2. The ambitions of some outstanding leader or nation.
3. Economic causes.

B. It has failed even in lessening the excuses for war.

C. Peace will only come when every nation is ready to give up its own selfish interests.
1. Not a nation on earth is ready to do so.

III. The Affirmative cannot prove that any advantage will result either to America or the world, if the United States should join the League.

A. There is no reason for departing from the traditional American policy of cooperation, free from entangling alliances.

B. The United States is cooperating with the rest of the world now, in all ways—commercially, financially, socially and politically.

IV. The United States should not join the League, because

A. The United States can do more good both for herself and the world by remaining outside of the League.
1. When any difficulty arises, we will be free to do as we please.
a. In this way we can influence the other nations by keeping them in the dark.
2. The only thing to be gained by joining the League would be the right to one negative vote on the Council.

B. The League of Nations is a European affair.
1. We should keep out until our help is asked for.

C. The United States cannot serve two masters.
1. Our duty to the League would conflict with our obligations under the Monroe doctrine.

D. It would result in constant political turmoil at home.
1. Our own political problems cause us sufficient concern without adding others.
2. With the diverse social and political sympathies that now exist among our people, grave difficulties

would arise if we had to take sides in a dispute between two European nations.

E. It would embroil us in the diplomatic confusion and nationalistic ambitions of the European powers.

THE LEAGUE OF NATIONS

UNIVERSITY OF TEXAS

versus

UNIVERSITY OF ARKANSAS

FIRST AFFIRMATIVE

Edward Mather, Texas

On June 28, 1919 the Treaty of Versailles was signed with the Covenant of the League of Nations as an integral part thereof. On November 19, 1919, the Treaty and Covenant failed of ratification in the Senate for reasons which it is not necessary to now discuss. Suffice to say, the reason that we are not now in the League of Nations is expressed in the one word: Politics. On January 16, 1920 the first meeting of the League Council was held in Paris and since that time the League has met at frequent intervals, performing quietly and efficiently the work of solving present international problems. The League is an organization now embracing fifty-four nations which confer through the Assembly, have an Executive Committee called the Council composed of four permanent members together with six non-permanent members elected each year from the Assembly. The League also has an office staff called the Secretariat which carries on the active work of the League in the interim between the meetings. Although it is by no means an ideal organization for the maintainence of world peace, it is, nevertheless an almost universal body. Every important nation of the world is a member with the exception of Germany, Mexico, Soviet Russia, Turkey, and the United States of America. We are assembled here this evening in an endeavor to determine whether the United States of America should enter the League or whether she should continue her destructive policy of isolation.

In the first place, a continuance of America's present policy of isolation will mean not only the blasting of Europe's hope

for permanent peace, but will mean that the United States will suffer both economically and politically. At the present time we are producing enough surplus to feed twenty million people abroad. This might be a fine thing but for the weakened buying power of Europe, where our agricultural surplus is sold. The only way out seems to be to reduce our surplus for export to a point where the American consumer must buy at scarcity prices and there is nothing at all left for starving Europe. The farmer has greatly increased his ability to produce at just the time when the world's need for his products could absorb all his output and more. But by our policy of isolation, we have prevented the business transactions that would have been immensely profitable both for America and the world. In other words, America's policy of isolation is ruining us economically. Therefore we should join the League of Nations in order to keep a foreign market for our farmers and manufacturers, for without such peace as the League offers, the sale and exchange of commodities necessary to our commercial prosperity is impossible. The present prostration of our farming industry is plainly due to the poverty and confusion in Europe and its inability to purchase the food and clothing which it needs. The bankers of this country know all this and have called upon our government to formulate a policy "on which it will be able to cooperate with the other nations to bring about the needed rehabilitation and peace in the world." As a matter of cold calculating business, we should enter the League if only for the promise it offers of rehabilitating Europe and restoring its markets to the world.

Not only should we enter the League for economic reasons but because at the present time isolation for such a nation as this one is impossible. As Chief Justice John H. Clarke so well points out, "A nation responsible for the government of the Philippine Islands; for the maintenance and protection of the Panama Canal; for the safety of many thousands of miles of coast line; for the protection of a great commerce on every sea; and for the policy of the 'open door' in China, Asia and Africa, such a nation cannot possibly live in isolation." A nation with the tremendous economic resources which America has at its finger tips; a nation with the power to make or break Europe today; a nation which is the recognized leader in the field of justice, democracy and freedom; a nation whose leaders

have always stood for the highest ideals, and whose actions have constantly been toward the betterment of mankind, such a nation, I repeat, cannot possibly live unto itself alone.

Not only should we join the League of Nations because our present policy of isolation is slowly but surely ruining both the United States and Europe, but because at the present time the League offers the best and only possible way of securing world peace. If for no other reason than the fact that the League offers a wonderful opportunity of keeping the world in a state of peace, I repeat, if for no other reason than that, the United States would be fully justified in joining.

Now how does the League propose to maintain and preserve the peace of the world. In the first place, the members of the League agree that they will not go to war against any other member nation until after they have submitted their differences to the Council or Assembly for a decision and a published report, but with the right, abundantly reserved, to thereafter go to war—to appeal to the gun and the torch—if they should so desire. The time required for such arbitration, discussion and investigation of the facts of a dispute would give opportunity for war passions to cool; it would give the people of the contending nations an opportunity to weigh the merit and significance of the quarrel against the uncertainty, the horrors, and the cost of war; and yet more important, the delay would result in the forming of a world public opinion which would be focussed by the League as was never possible before, against which few nations would have the temerity to fling themselves to destruction.

In the second place, the League proposes to maintain and preserve international peace by the limitation of armaments. There is no provision of the Covenant that will contribute more toward securing the permanent peace of the world than that provision relating to the limitation of armaments, for all experience serves to show that rivalry in arming inevitably leads the way to war. The League is not given the power to limit the army or navy of any nation, but the Council is directed to formulate plans for the reduction of the armaments of all nations and to submit such plans for the consideration of the various governments, for acceptance or rejection.

In the third place, the League proposes to maintain and preserve international peace by having the member nations agree

to join each other in imposing a world-wide economic and social boycott upon any Covenant-breaking member of the League. The present state of dependence of the nations each upon the other, some for food, some for raw materials of manufacture, and all for markets, renders this the new substitute of the modern world for the savagery of war. If Germany and Austria had known that if Belgium should be invaded, every other country and market in the world would be closed to them for either purchase or sale of every character, they would have never entered upon their desperate enterprise. The statesmen of all nations, the men who speak the last word for or against war, are a unit in declaring that this universal boycott will prove a powerful agency in preventing future wars.

In the fourth place, the League proposes to maintain and preserve international peace by "respecting and preserving as against external aggression the territorial integrity and existing political independence of all members." This is the famous Article X which has been proclaimed by some as a promise of enduring peace and by others as a certain portent of many wars. My time does not permit me to take up and dispose of the many fallacies which have been made about this article, but it will suffice for the present to say that the only difference between Article X and our bulwark of national liberty, the Monroe Doctrine, is that the Monroe Doctrine undertakes to preserve against European aggression, the territorial integrity and existing political independence of American nations, while Article X undertakes to preserve the same independence and territorial integrity of the entire world. Moreover, if Article X were violated, it would take a unanimous vote of the Council to declare war, and again the United States would have a veto. Thus we see that through the methods of arbitration and discussion, the limitation of armaments, the imposition of a world-wide economic and social boycott upon any Covenant-breaking member of the league, and through the enforcement of Article X, the League of Nations provides four certain methods of preventing future wars between nations.

Now the League cannot prevent war in theory only, but it has actually brought to a peaceful settlement four as promising prospects of war as the worst enemy of the League could have wished to see provided to test its usefulness and power. Finland and Sweden were drifting inevitably into war over the

Aaland Islands when the League stepped in and settled the matter without moving a single soldier nor firing a solitary shot. Next, Poland and Lithuania became involved in a boundary dispute, armies were on the move and war was imminent when these new nations turned to the League for settlement and such settlement was effected without moving a soldier or firing a shot. Again, Germany and Poland were seemingly hopelessly divided over the partition of Upper Silesia, and again the League brought about a solution that commanded peace. Next, a boundary dispute between Jugo-Slavia and Albania led to an armed invasion of the latter by the former. The League declared a world-wide boycott upon the power guilty of the aggression and immediately Jugo-Slavia drew back its forces within undisputed boundaries and peace was assured. If the League had done nothing else and if it were to dissolve tomorrow, it would have more than justified the effort that has been put into it and the hopes that have centered in it by thus four times securing peace to a distracted world.

This then, Ladies and Gentlemen, is the League of Nations—not a superstate backed by vast armaments, but a simple instrument for bringing nations together in conference around a table. Its warmest friends make no claim of perfection for it. It cannot bring the millennium. It cannot immediately allay the high fever of present international discord. Its weaknesses are apparent. It is powerless to solve or even deal with some of the most menacing problems that confront us. But it is a co-operative world movement, the first of its kind in history, constituting a central rallying point around which the forces of law and peace may gather, and slowly developing new approaches to common dangers and new methods of common action. During its first three years, in a period of unparalleled difficulty, its positive achievements have been distinctly creditable, far wider in scope and greater in bulk than its best friends dreamed possible. In spite of all cynicism, all gibes, all remorseless criticisms, it has become a real influence in the world and has won for itself a distinct place in the confidence and hope of many peoples. If this League proves a blunt and ineffective instrument, there is nothing ahead of us except despair in the face of new wars. The time is passing rapidly when America can aid the rest of the world. We must decide now whether America is to sit aloof, while her friends and allies are sinking deeper and deeper

into poverty and despair, or whether she will step in and lend a helping hand in order that justice and right shall remain triumphant and "peace on earth, good-will among men" become an actuality.

FIRST NEGATIVE

Ward H. Adams, Arkansas

Mr. Chairman, Honorable Judges, Ladies and Gentlemen: The Negative would first make clear its position in this debate. Now in the first place we are as heartily in favor of permanent, international and world-wide peace as are the gentlemen of the Affirmative. But we cannot agree that the League of Nations and more particularly America's entrance into the League will further or achieve that ideal.

The Negative will base its case on these: First, that the League of Nations has utterly failed on the basis of its record. Second, that it offers little promise of succeeding in its fundamental purpose—namely the reduction of war. Third, that the Affirmative has not produced and cannot produce substantial, tangible results that would follow from the entrance of the United States into this League, either to America or to the world. Fourth, that there are reasons why America cannot afford to join this League. We also have three questions we wish to ask the Affirmative: 1. What is there wrong with our present policy and why should we change it? 2. What substantial, worthwhile results would come to the world by the United States entering this League? 3. What substantial, tangible results would come to the United States?

Now as to the first point, that the League is a failure and has not fulfilled its fundamental purposes on the basis of its five-year record. Now we do not mean by this that the League has done nothing whatsoever. The Secretariat of the League of Nations through its health and labor bureaus, etc. is doing and has done admirable work. But the United States has been and is participating in that. As an international secretariat, as a bureau for the transaction of international business, and a world-wide fight on disease and social evils, the League is worthwhile. But as a political organization, as a means of preventing wars and disputes between nations, which the Affirmative will tell you

is the fundamental purpose of the League, it has proved itself the rankest of failures.

One of the outstanding examples of the League's futility is that of the Ruhr valley episode. France, one of the most influential members of the League, seized the heart of Germany in open violation of the covenants of the League of Nations. Now as to whether France was justified in her claim or not is beside the point, the facts are that France violated the covenants of the League, ignored that body and even defied it, and that the League did not even raise a hand.

But let us look for a moment at the so-called accomplishments of the League. There are four, and four only, settlements which are and can be even offered as accomplishments of the League of Nations. Let us examine this wonderful four. First, there is the Jugo-Slavia-Albanian boundary difficulty. Here the gentlemen of the Affirmative may tell you that the League averted a war. But the facts are these: Jugo-Slavia, following a dispute over certain territory, sent in an army, seized the portions in dispute—a clear violation of League covenants. Now the League took no action, did not consider the affair of its own volition. But immediately when Lloyd George, with the allied armies at his back, demanded that the League take steps to end the matter, the League followed orders.

The second is that of the Poland-Lithuanian matter. A Polish general seized Vilna, claimed by the Lithuanians as their ancient capital, and, dispite the protest of the Lithuanians and repudiation by his own government, continued to hold it. The League promised an army to expell the usurper but turned around, confirmed the Pole, and left the whole affair in a turmoil.

The third is that of the Aaland Island dispute between Finland and Sweden. Now this was not a war ended or averted but a mere matter of arbitration over the possession of some small islands. After the two nations had referred the matter to a League commission, that body investigated the affair and made a decision, which both accepted but with which neither Finland, Sweden, nor the inhabitants of the islands are satisfied and which has caused far more trouble than the dispute ever did. The last of these four is that of the Upper Silesian difficulty between Poland and Germany. This was a dispute of some importance and the League did render a settlement, which on

the face of it appears a league accomplishment. But the League never took the dispute under consideration, never approached the matter, until the allied council saw fit to request the League to render a decision. This the League council did at the instigation of and apparently at the control of the allied council. Now these are the four matters offered as the League's accomplishments, after five years, and not a one of them is a credit to the organization. And they are not offered as routine work but as the highest accomplishments of a League of Nations.

Now let us turn again to the acknowledged failures. The Corfu episode—Italy seized the island of Corfu, after a bombardment that had killed a number of Greek citizens—a clear violation of the covenants of the League of Nations by another of its powerful members. Unlike in the Ruhr question, the League attempted to take a hand by demanding that the case be submitted to the Council of the League. But Mussolini laughed at them and refused to allow them to even consider the matter. Nor could the League achieve more in the Greco-Turkish war, or with reparations or disarmament questions or the Fiume episode. Thus we see that a listing of what the League has done and more particularly what it has failed to do, shows its utter futility. The League has seen fit to take action in matters affecting such nations as Jugo-Slavia and Lithuania but in matters affecting the powers, Britain, France, and Italy, the League has been defied and scorned. Mussolini, in the Corfu episode defied the League and refused to brook its interference. England was dictating Persia's government against the will of Persia and in violation of the League's covenants. The League protested, but England ignored its objections and stopped only at the request of the United States. France in the Ruhr seizure openly defied the League of Nations and ignored that body. So we see that the League has failed, for it has not settled one dispute of major importance, it has settled only four minor affairs and not a one of them satisfactorily, it has sidestepped every issue, and has been defied by all the powers.

We would further prove that it offers very little promise of succeeding in its fundamental purpose, the reduction of war. Now the gentlemen of the Affirmative, as other proponents of the League, would have you believe that the League would tend toward the end of war by settling these little disputes such as

the Poland-Lithuanian affair. They base this on the war of 1914, saying, that it was caused by just such an affair. Ladies and Gentlemen, such is a slight on the intelligence of the peoples of the world. Wars do not result from these petty affairs nor was the war of 1914 due to the murder of the Bulgarian Prince. Wars result from 1. deep seated or long-fostered enmity between two nations, 2. from the ambitions of some outstanding leader or nation, or 3. from economic causes. The League of Nations does not even attempt to remove one of these. The gentlemen of the Affirmative have mistaken cause and excuse. These little flares like the Bulgarian-Siberian difficulty are merely the excuse for an outbreak and by no means the cause. Likewise the League of Nations does not even attempt to remove a single fundamental cause of war but merely to lessen the excuses. So far it has failed in even this. Another point: wars and disputes between men and nations are the result of abnormal conditions in the minds of men—are a disease in the minds of men and have existed since the birth of man. And wars and disputes can end only when a change comes in the hearts and the minds of men and not by the creation of some superficial organization. And only when every nation is ready to give up every selfish interest will wars end and a League of Nations succeed. And not a nation of the globe has taken that stand.

Thus we see, Ladies and Gentlemen, that the League has failed, for it has not settled any difficulty of major importance: it has settled only four minor affairs and not a one of them satisfactorily; that it has sidestepped every issue, and has been defied by all the powers. And secondly, that it offers very little promise of succeeding in its fundamental purpose, the reduction of war. For it removes not a one of the causes of war but merely attempts to lessen the excuses and so far has failed in even this, and that not one of the nations is as yet ready to give up its selfish interests, a thing necessary for the success of a League of Nations.

But had the League of Nations proved itself a tremendous success the Affirmative would still bear an enormous burden of proof on its shoulders. They would have to show that there is some fundamental reason for us abandoning our present policy, and that we would by joining the League of Nations benefit our-

selves and the world. It is in order to make clear these issues that we have asked that the second Affirmative speaker answer our questions in his address.

Honorable Judges, we have asked the Affirmative three questions which they must answer to your satisfaction, else their case fails: 1. What is there wrong with our present policy and why should we change it? 2. What substantial, worthwhile benefit would the world gain by America entering the League of Nations? 3. What substantial, tangible results would accrue to the United States?

And what could America hope to give either to herself or to the world by joining a spineless organization that has failed to stand a test or to meet an issue squarely. Now we do not by this stand advocate that the United States should pursue any policy of isolation or of aloofness from the world. We heartily indorse cooperation with Europe and the world as long as it is contingent with American welfare and is in regard to matters affecting America's interests. But we do maintain it should be carried on in the traditional American way, without entangling alliances or leagues. America has been and is pursuing such a policy. We cooperate with the world in all lines, commercially, financially, socially, and politically. We trade with every nation of the globe—that is commercial cooperation. American acceptances, exchange, and the like are known in all the cities of the world. We have loaned money with a lavish hand. American investors are involved to the corners of the globe—that is financial cooperation. And we have been the outstanding nation in social cooperation, through the Red Cross, the Near East Relief, the Russian Relief, etc. We have treaties with England, in regard to the Panama Canal, the Alaskan fisheries, and other matters concerning America and Britain. And likewise with France, with Japan, and other nations. And we participate in conferences. The Washington Conference was called by the United States and this is political cooperation. But we have demanded that Europe stay out of American affairs and we should likewise stay out of European affairs and politics.

Here the Negative rests its case and on these points maintains that the United States should stay out of the League of Nations: First, that the League has utterly failed—on the basis of its record. Second, that it offers little promise of succeed-

ing in its fundamental purpose—the reduction of war. Third, that the Affirmative has not produced and will not produce substantial, worthwhile results that would follow from the entrance of America into the league—either to the world or to America. But even should these be forgotten, the Affirmative still has serious difficulties to solve. We will further prove in the second address that there are reasons why America cannot afford to join this League of Nations.

SECOND AFFIRMATIVE

Lawton Gambill, Texas

The League of Nations has succeeded in practice in other ways just as it has in the prevention of wars. At the close of the war the problem of returning war prisoners to their homes arose, and the League met the situation, and at a cost of only £400,000 returned four hundred and twenty-eight thousand such prisoners to their homes in twenty-six different nations. With the same effectiveness it brought help to a million and a half Russian refugee exiles in western Europe. It was directly responsible for the saving of Austria from economic collapse when the money system of that country seemed to have crumbled and other nations were waiting to take advantage of her plight. It is making a plan to do the same for Hungary. It has proven itself to be a friend of backward peoples by publicly reviewing each year what has been done in the colonial areas that were taken from Germany and intrusted to various powers. It has established the rule of publicity for international agreements by the registering and publishing of about five hundred and thirty treaties made by its members. It has created a Public Health Organization which has maintained a heroic struggle on the eastern frontiers of Poland against typhus and other dangerous diseases. It is working to control and regulate the traffic of opium and other noxious drugs. The white slave trade is being fought by the League. Such accomplishments as these are surely enough in themselves to prove that the League is an organization of which any nation would be proud to be a member, but these are not the only fields in which the League has proven a success.

One of the chief sources of unrest within the nations of the world for past years has been the condition of labor, and the League has not overlooked this. It has established in the International Labor Organization a central agency to study and improve the conditions of labor and the relations between employers and wage earners. Sixteen conventions framed and adopted by this organization as bases for new legislation have already received more than one hundred ratifications from various states. This means that it is within the view of the League to get at the root of, and help to solve the problem, that has indirectly contributed to practically every disturbance of the world's peace.

Ladies and Gentlemen, the dream of America for years has been for the establishment of a real world court. Efforts had brought partial success along this line, but not until the League of Nations established the Permanent Court of International Justice was this dream fulfilled. This organization is a court in all that the name implies, and has settled seven important questions in the first two years of its existence. The fact that even the republican opponents of the League want membership for the United States in this court proves the statement of Manley O. Hudson that if the League had done no more than to set up the Permanent Court of International Justice that it would have more than earned its salt.

And there is another field in which the League is working for the safety of mankind, that is, in the reduction of armaments. Much of the activity of the League has been delayed out of deference to the conference at Washington, but progress has been made in the forming of plans of mutual guarantees among the nations, which must necessarily be the first step toward disarmament. The work is hampered to a great extent by the absence of the United States from the League as most of the munitions of war are manufactured by private industry in this country and the United States can only be an unofficial observer to the efforts of the League.

Ladies and Gentlemen, these successes show that the League certainly works in practice and they show more than that. They show that the League is the means of teaching the vital thing that is necessary to meet the complexities of twentieth century civilization—namely—cooperation. The nations of the world are learning what it is to work together in time of peace and

when they learn that lesson, they will be prepared to work together in the same way when the peace of the world is threatened.

A great privilege is extended to the United States in allowing her to become a member of such a League of Nations. In the first place, because it gives to us the opportunity to step into a position of world leadership. The United States is known as the altruist among nations. Not one time have the nations had reason to point to us as a nation of aggression, but on the contrary, we have been known as the champions of peace and the friends of the weak. America proved to the world in the late war that she was fighting not only against oppression and tyranny, but to end war. After having acquired such an enviable reputation, the question is: Are we going to sit by idly now and lose it? Not if we accept the privilege that is extended to us. The League of Nations is the offspring of the United States and it is only natural that once within the League, the United States will be the leader. The League is the one enduring monument of the war. Every monetary gain from the World War is regarded as a stain on the hands of the possessor, but not so with the League. A visit to one of the meetings at Geneva will show that the people of Europe have set their minds on it. A reading of the papers will show that the English government is in it to stay. Labor endorses it. The smaller nations of the world see in it their only hope of lasting safety. In fact, the League is the embodiment of the great ideal of this age. Therefore, it must grow, and eventually we must join. We have our choice of joining now and making secure our place as the leader of the world. On the other hand, we have the choice of delaying, and thereby convincing the nations of the world that perhaps after all the United States should not be in such a position. Absence from the League for a much longer time can only result in loss of position by the United States for the simple reason that there is now a world-wide organization in which the problems of the world are to be discussed and solved, and the empty seat of the United States is going to mean that the leadership in that discussion and solution is going to pass to a member nation that did not make its exit from world affairs at the end of the war. Ladies and Gentlemen, there is no choice if we are to retain our place as leader of the world.

In the second place, it is a privilege that is extended to the United States, because it would be to the practical economic advantage of the United States to be within the League. Let it be understood at the outset that the Affirmative does not mean to say that the selfish motive should be the moving motive to cause the United States to become a member of the League, but the economic advantages are present and are strong inducements for the entry. In November, the Transport Conference took place in Geneva under the charge of the League for the purpose of *codifying* international rules regulating transport on land and the use of maritime ports. It is true that the United States could not be bound as it was not a member, but it is just as true that the ports with which the United States trades would be bound, and it makes little practical difference at which end of the line the control is exercised. Forty nations were represented and the United States with its sale of $3,000,000,000 worth of goods annually to Europe had to be content with looking in at the window while those nations passed on rules which were so important to the shipping of this country. This is just an example of what is to follow. With such an organization, it is a certainty that the nations will use it from time to time to pass on questions of commerce and trade and it is imperative that the United States, in the interest of its own welfare, be a member so that the voice of this country may be heard.

Furthermore, the United States as a member of the League would give to that body a voice of authority to bring about disarmament and a reparation settlement, and that means that Europe would have a chance to go back to work. When that comes about the United States may honestly expect a return on the war loans, which is certainly not forthcoming with the condition that Europe is now in. The war played havoc, that is not to be denied, but at the same time, it is *indisputable* that very little of the actual area of Europe was touched by the war torch and the industrial units are still intact. The material for production is there and ready to be used when the United States enters the League and gives it the necessary authority to settle the questions that are keeping the people of Europe from work. On the other hand, the United States not only loses practically all chance at a collection of the war debts, but also the trade that is not to be had, simply because it cannot

be there with the present condition. Therefore, we see that it would be a privilege for the United States to join the League if only for the purpose of security for its economic interests.

Not only is it a privilege for the United States to be allowed to join the League, but it is its imperative duty that it should join for the safety and peace of the world. She is the richest nation in the world and most of the nations are her debtors. This gives her almost unlimited power which she could exert for peace and justice in the councils of the League. The hope of the world is that the League be effective, and the membership of the richest and most powerful nation will give it effectiveness. The purpose and aims of the League cannot be criticized; effectiveness is what is needed. America is the ideal of the world. More than any other nation, she has been asked to settle disputes, and once within the League, the nations would eagerly follow her lead in the establishment of peace and justice. America must be on the inside so that she can use her influence at first hand when the fate of nations is being decided. America owes it to the world to join so that the most peaceful nation of the world may remain the model of nations. America might use her strength to try to stop a war while out of the League—but she must not wait for the war to start to stop it—she must enter the only practical method yet devised of preventing war. The opposition may talk of other Leagues but there are no others. The peoples of fifty-four nations have placed their faith in THE League of Nations. America must make it strong because it provides a means of preventing war. It is not perfect, no, but it is the living vehicle for the preservation of peace—and peace we must have. The next war, if there be one, threatens to destroy civilization itself. With the improvements in air navigation, no nation is safe from its remotest enemy. The submarine of the future will make starvation of nations possible. Science boasts that it has perfected gases which will destroy whole cities even tho they be far behind the line of battle. The poisoning of water supplies and the release of germs may mean the utter destruction of entire nations. War must end or it will end human life. We have a means in the League of Nations. Will the United States repudiate such a League? We have the statement of a high German official that if Germany had known that she would have to fight both England and the United States that she

would never have attempted the undertaking. The psychology of the thing would have kept her out and the dispute would have been settled by the League as it has settled other such disputes. We have the statement of the statesman of 1914, Sir Edward Grey that if the machinery of the League of Nations had existed at that time that the nations would have gone to conference and not to war. Ladies and Gentlemen, this debate resolves itself into the single issues of—League or war.

SECOND NEGATIVE

C. E. Palmer, Arkansas

Mr. Chairman, Ladies and Gentlemen: Let us continue with our line of reasoning. My colleague has shown you, first, that the League of Nations has not succeeded; second, that it offers little or no promise of succeeding; and third, that in order to carry their case, the Affirmative must show us what definite tangible results will come to the United States and to the world by our entrance into the League. Now these questions cannot be answered, but if they could, they would still have a tremendous burden of proof upon their shoulders. There are five good, sound reasons why the United States should not join the League of Nations.

In the first place, the United States is far more powerful out of the League than in, and can do more good for herself and to the world by remaining out. I will show you why: The League of Nations is governed by what is known as the Council; this Council is composed of nine nations, including France, England, Italy, Japan and five others, one of whom would be the United States should she join. The action of the Council upon any question must be unanimous; one negative vote by any one of the nine members will withhold action upon any question. With the United States out of the league, she can do whatever she sees fit when any difficulty arises, and in this manner she can exert a better influence over the whole world by keeping them in the dark.

I will cite you a good illustration of this point: In 1921, England took charge of the Persian government, in order to protect her oil interests. A little more than a year later, after the Persian government had become more stable, the League

of Nations ordered England to withdraw. She did not do so and continued to occupy Persia until the United States took up the case and requested her to turn the government back to Persia.

Now, my opponents will come back and tell you that we could not be dragged into war by the League of Nations against our will were we a member; granted; suppose we were wronged and had just reason to go to war: then any other nation could bind our action by merely saying "No." The only thing we would gain by joining the League of Nations would be the right to one negative vote on the Council. In view of this regulation, we can accomplish far more out of the League than in it.

Secondly—The League of Nations is a European affair. We will grant that it was an American idea, that it was planned and promulgated by Woodrow Wilson, and that we sponsored the whole business. But the only true test of anything is: "Does it work," and certainly the League of Nations has not accomplished a single thing toward reducing the risk of war during its five years of existence. Now then, since it was organized primarily to settle European difficulties, why do we want a voice in it? We have for more than one hundred years maintained the Monroe Doctrine policy, which says we shall administer to the needs of the Western Hemisphere, by ourselves, and that Europe can handle her own affairs. Ever since the time of Washington, we have strictly adhered to the policy of no entangling alliances. Why do our opponents advocate our membership in the League? We do not want to have a voice in European affairs and at the same time tell the countries of Europe they shall steer clear of the new world We do not mean, however, to imply that we will not lend our counsel and advice any time they seek it, but we maintain we should keep out until they do ask our help.

In the third place, the United States cannot justly serve two masters. Should we join the League of Nations, we would at all times temper our actions by the traditions of the Monroe Doctrine. You all know we would vote "no" should any case arise which would be harmful to the United States or to our traditional policies. Since we would always hold this viewpoint, how could we expect to serve the world to the fullest—were we represented on the Council? We cannot join the League and support it to our fullest extent, and we certainly

would not want membership if we could not be fair in the use of our powers.

In the fourth place, if the United States would join the League, we would be in a constant political turmoil. Look at us today. See the disturbance created over the mere question of our joining. What would the situation be if we had a delegate over in Europe whom we had to instruct on every political question of the world? We all know that our own political problems give us enough concern without taking on any unnecessary new ones.

We learned during the great World War that the bulk of the American people have a biased feeling in favor of some European nation. In other words, all of us are pro-German, Pro-English, Pro-French or Pro-something. Now, suppose we should join the League of Nations, become a member of the Council and had to make a decision in some controversy among continental European nations. What would be the result in the United States. We would be in a far worse political upheaval than we have ever before witnessed.

In the fifth place—Europe herself is not conscientiously following the Covenant of the League of Nations. Today France and England are having an expensive competition in the building of airplanes. Look at France's invasion of the Ruhr valley. Do these instances look as though they were following the obligations in the League? There are any number of instances in Europe; we are constantly reading in the daily press of European difficulties which the League of Nations would settle if it were successful. Furthermore, the leaders of Europe themselves admit that the plan of the United States is the more logical one for us to follow. I will quote you an extract from Ramsey McDonald, the present Premier of England. He says, "We know America's difficulties; we respect America's suspicions. The American people are drawn from many diverse sources. They have crossed the Atlantic with many bitter memories in their hearts—they have no intention of letting the mighty state which they have done their full share in building up become an adjunct to any European power, or to get mixed up in the diplomatic confusion and nationalistic ambitions of European policy." This is characteristic of European views.

Now, Ladies and Gentlemen, the Negative has shown you: first, that the League of Nations has not been a success;

secondly, that it offers little or no chance of success; third, that the Affirmative cannot show you wherein the United States or the world would benefit by our entrance into the League. They cannot show you these things, but if they could they would then have to meet five logical reasons why we should not join. First, that we can do more good out of the League than in; secondly, that the League of Nations is a European affair and that we should follow the Monroe Doctrine and let Europe settle her own difficulties; third, that if we did join we could not give it our fullest service since we would always be looking out for the Monroe Doctrine. Fourth, that we have enough political questions of our own to confront us, to say nothing of those the League would give us, should we join, and fifth, that Europe is not herself honestly upholding the League, and until she does we cannot consider entrance. In view of the facts, we of the Negative contend the United States should not join the League of Nations.

FIRST AFFIRMATIVE REBUTTAL

Edward Mather, Texas

Ladies and Gentlemen: I must ask your indulgence in this matter since it is impossible in the five minutes allotted me to answer or to point out all the fallacies which have been so glaring in the speech of my honorable opponents. I can only point out to you a few of the most prominent discrepancies and answer only a small number of their arguments.

In answer to their first question, "What is fundamentally wrong with our policy that we should change it?" I would say simply this: The fact that the United States is not a member of the League of Nations is slowly but surely ruining the United States and Europe, and we challenge the gentlemen of the Negative to prove that it is not so. The failure of the United States to enter the League of Nations is hindering welfare work in both the United States and in Europe, and again we challenge the gentlemen of the Negative to prove that this is not true. The fact that the United States is not a member of the League of Nations has done more than anything else to prevent land disarmament in both Europe and America, and again we challenge the gentlemen of the Negative to prove that such is not the case.

In answer to their second question, "What tangible, worthwhile results would come to the world from the United States entering the League of Nations?" I would say first the entrance of the United States into the League will do more than anything else to settle international disputes. The United States is the greatest nation in the world and the authority and moral force back of it would constitute a tremendous force in the settlement of international disputes. I would say secondly, that the entrance of the United States into the League will do more than any other one factor to promote the peace and consequent rehabilitation of Europe and the world. If nothing more were accomplished than the settlement of international disputes and the restoration of Europe by the United States's entrance into this league, we would be fully justified in joining it.

In answer to their third question, "What tangible, worthwhile results will come to the United States from her entrance into the League of Nations?" I would say, again in a selfish spirit, that the entrance of the United States into the League of Nations will help rehabilitate Europe and enable her to pay to America the tremendous debt that she now owes us. I would say, again in a selfish spirit, that our entrance into the League of Nations will restore to our farmers and manufacturers a market for their products. Thirty per cent of our farming lands are going back to the prairie sod, according to ex-governor Lowden of Missouri. The cause of this is that the United States is not in the League of Nations. There, Gentlemen, is the answer to your questions.

Out of the perplexing maze of fallacies, I can only take cognizance of a few. In the first place, the Negative is under the delusion that the Monroe Doctrine will be abandoned if the United States enters the League of Nations. In answer to that argument, I would refer the gentlemen to that delightful book "One Hundred Years of the Monroe Doctrine" written by D. Y. Thomas of the University of Arkansas, in which he says, "Granting, however, that we were as weak today, compared with other nations, as we were in 1823, there would be some excuse for the principles of the Monroe Doctrine to remain the same, that is, that we look out for ourselves first and for others only incidentally. But power brings responsibility and the time has now come when we may well begin to ask if we are not strong enough and under a moral obligation to take more

thought for others and less for ourselves. We have agreed to make no more aggressions at the expense of each other. Perhaps the next step will be from the "advanced" nations to agree not to "advance" any more and to restrain any one who does. When that day comes the Monroe Doctrine will not have been abandoned, but will have become what Woodrow Wilson sought to make of it, a guiding principle of action for all the nations of the world." Ladies and Gentlemen, that day has come. The League of Nations offers the opportunity, not for the abandonment of the Monroe Doctrine, but for its use as a guiding principle of action for all the nations of the world.

If the gentlemen of the Negative are still fearful lest by entering the League of Nations we commit ourselves too irrevocably to something we may regret, let them remember that we can always withdraw at the end of two years. Why not try the League for two years at least? Ladies and Gentlemen, why not try anything rather than go blindly, stupidly, helplessly forward,

"Into the jaws of death,
Into the mouth of (the) hell,"

of another world war. The world is drifting inevitably and surely into another war. There is no alternative to the League of Nations. We challenge the gentlemen of the Negative to submit to you, Ladies and Gentlemen, some other plan, organization, or theory which provides five as sure means of preserving world peace as does this league, and which offers as many fine chances for humanitarian work and efforts for peace as does the League of Nations. You may have your choice, isolation and war as advocated by the gentlemen of the Negative, or the League of Nations and peace as proposed by the Affirmative.

FIRST NEGATIVE REBUTTAL

Ward H. Adams, Arkansas

Ladies and Gentlemen: Let me again remind the Affirmative that they have not answered my questions: What is wrong with our policy and why should we change it? What substantial, worthwhile results will come to the world from the entry of the United States into the League? What tangible, worth-

while results will come to the United States from her entry into the League?

In answer to our three questions, which the Affirmative must satisfactorily answer to you to make a case, my opponent says that our policy is ruining the United States and Europe and challenges us to prove this is not true. The gentlemen of the Affirmative have to prove that themselves. The burden of proof is not on us; they have to prove they are true, and this they did not do. We have asked the gentlemen to prove their answers themselves.

And as to what the entrance into the League would do for the world, he says we would give the world disarmament and a few other things and again challenges us to prove it untrue. The gentleman said because we are out of the League of Nations, the world is not disarmed. I challenge him to prove that the League of Nations has done anything for the disarmament of the world. Our nation did more in three months, at the Washington Conference, than the League of Nations has done in five years. As to the second question, he says that it would do more to rehabilitate Europe and settle international disputes, and once again challenges us to prove it would not. The burden of proof is on him.

As to the third question, he says that it would enable Europe to pay back her war debts. We would call the attention of the gentleman to the fact that the nations are paying their war debts, and we are not in the League of Nations; that the countries are paying back these debts as fast as can be expected in view of the existing conditions in those nations. He says that it would open markets for America's products. The matters of markets and trade are not affairs of superficial political organizations but of underlying economic factors and principles. The reason America's trade has fallen off is largely because the European nations cannot buy and the depreciation of the foreign currency. How the entrance of the United States into this League would change economic principles we fail to see. Again we would ask that the Affirmative make another attempt to answer our questions. They have not offered one plausible answer. Unless they can show something fundamentally wrong with our present policy; produce some worthwhile results that would come to the world from the entrance of America, and

offer some tangible, worthwhile benefit that would accrue to the United States, their case fails.

The Affirmative say we cannot continue a policy of isolation. We wish to call your attention to the fact that America is not nor has not been isolated, financially, economically, socially, or politically. We are pursuing a policy of cooperation; the Negative advocates the continuance of such a policy. We have loaned money with a lavish hand. American acceptances and bills of exchange are known to the cities of the world. American investors are interested everywhere. We have loaned money to all the nations. That is financial cooperation and not isolation. We cooperate commercially, for we trade with all countries. Socially we cooperate—look at the Red Cross, the Near East Relief, the Japanese Earthquake affair, the Y.M.C.A., etc. And likewise politically; America has treaties with England, France, Japan, and others in regard to trade, territory, and other matters affecting America and the other nations. We do not advocate any policy of isolation but hold that America should cooperate with the world in matters concerning America. But we do maintain that it should be carried on in the American way—without entangling alliances and without leagues.

The Affirmative made the statement that if there had been a League of Nations in 1914 there would have been no World War. We would ask the gentlemen of the Affirmative to prove this.

Again we would state that we heartily approve the work of the Secretariat of the League of Nations and its social work but the fundamental purpose of the League is to reduce war and the League has proved to be the rankest of failures in attempts to carry out these purposes.

SECOND AFFIRMATIVE REBUTTAL

Lawton Gambill, Texas

Before going any further with this discussion allow me to correct the statement of the gentlemen: that I made the statement that if the League of Nations had existed in 1914, that there would have been no World War. I told you in plain words that this was the statement of Sir Edward Grey. Then we have the

statement of the opposition that this is untrue. Ladies and Gentlemen, you have your authorities and may make your own choice.

Next, we are confronted with the contention that the League has accomplished nothing in the way of disarmament. I pointed out specifically that the League is working on plans of mutual guarantees among the nations. It is obvious that no nation is going to disarm until it has some guarantee of safety, and the League is seeking to give them this.

Then we hear that if the United States goes into the League that we will be involved in constant debate. Well, Ladies and Gentlemen, if we don't go in, we will be involved in war, and again you may make your choice. My opponent also talks of how the Council will always be deadlocked, as a unanimous vote is required. I demand that he read the Covenant, and he will see that it is provided that in case of a deadlock in the Council that the matter may be decided by a majority vote in the Assembly.

We also hear that the United States can do more welfare work out of the League than in. This is no more than saying that divided action is better than undivided. We would not detract one iota from the wonderful work of the United States, but it is unreasonable to suppose that one nation can do more alone than with the help of fifty-four other nations in a well organized league. In his own argument, he points out that the United States wishes to cooperate with the League. This proves that even the United States appreciates the value of the League in this field.

The Negative has taken a singular delight in pointing out some instances in which they allege that the League has failed. We should abandon a worthy cause because in some instances it has failed, is the reason he gives why the United States should cast the League aside. Ladies and Gentlemen, we gladly grant that in some case the League has failed, but allow me to give you a parallel case. The 13th, 15th, and 18th amendments of the Constitution of the United States are being violated every day. Do they demand that we cast aside the Constitution because in some instances it does not function properly? Should we disband the Austin policy because they fail to catch a few burglars? If the League has failed in some cases, what better

reason could you want to show that the United States should enter and make it a success? Even the Negative will admit that it would have been for the betterment of the world if the League had succeeded in those instances.

Ladies and Gentlemen, we call your attention to the Corfu incident, and in no way admit that it was a failure for the League. The outstanding facts of that incident are these: first, Greece and Italy were on the verge of war; second, the League of Nations intervened; finally, there was no war. What better example of success could be had? What is the purpose of the League? Not to force a settlement, but to bring about a settlement between nations that are about to go to war.

We hear that the United States could do more for peace while out of the League than it could within. They have not told us how. Perhaps they mean by conferences. It took five months to call the Hughes Conference together on the problem of disarmament; it took nine days for the League to assemble and consider the invasion of Albania by Jugo-Slavia. Conferences simply cannot act quickly enough.

In no way have the Negative shown that the United States would not get the position of leader of the League, nor have they produced any plan for the preservation of peace. And what is this debate, we ask, if it is not to determine the best means for the preservation of peace? Until they bring some semblance of a constructive plan to you, and not so much destructive material, we refuse to allow them a single point.

SECOND NEGATIVE REBUTTAL

C. E. Palmer, Arkansas

Ladies and Gentlemen: My opponent wants to call attention to the fact that because an organization fails is no cause for refusing it. In the first place, he points out that the Austin police force is not always successful. However, we are sure they have succeeded more times than they have failed; but the League of Nations has not succeeded once in five years. How long does he want to give them?

In the second place, he says that the Covenant of the League of Nations says that in case of a deadlock, it is left to a ma-

jority vote of the Assembly. The Covenant makes no such provision. The Covenant says it shall be left open two months, and then the nation shall act. Suppose the nation does not want to wait two months?

He points out that Sir Edward Grey, and not he, said that if there had been a League of Nations in 1914, there would have been no war, and I will still maintain that the first man that said this was only making an assertion.

The Corfu matter was not settled by the League of Nations. Mussolini laughed at the League, and the Council of Ambassadors took it up and settled it. The League gave it up as a hopeless job.

We have given you several reasons why the United States should not enter the League, but he has not given you a single argument why we should enter. He cannot tell you what is the matter with our present policy.

I have shown you that we can do more for the world out of the League of Nations than in. The United States can do as she pleases. We have no entangling alliances to hamper us. With the big stick the United States wields, we can do more for the world and even the League of Nations out than in. Instead of binding ourselves to abide by the decisions of the Council, let us remain free to settle our own difficulties.

He must answer our argument or he cannot carry his case. We could admit almost every word the Affirmative has said and they would still have no case. He perhaps would say that because the League is a success we should join it. We have shown to you what a failure it is, but even were it a tremendous success, the Affirmative has still shown you no reason why we should thrust ourselves into it. The Affirmative in order to offer any basis for their case must answer three questions and they have so far failed to even approach one answer. The Negative rests its case on these: 1. That the League has utterly failed; 2. That it offers little promise of succeeding; 3. That there are six good reasons why the United States should not join; 4. That the Affirmative has not shown: 1. That there is something fundamentally wrong with our present policy. 2. That the world would benefit by the United States joining. 3. That the United States would gain any tangible worthwhile results by joining.

Ladies and Gentlemen, unless the Affirmative can show you some reason why we should join, they have no case.

AFFIRMATIVE REJOINDER

Lawton Gambill, Texas

Ladies and Gentlemen: It is apparent that the case of the Negative is that the League has been a failure. We have proven to you that it has been a success, but granting that it had failed in some instances, we have shown that that would be all the more reason for the United States entering immediately. The central theme of their case, as nearly as it can be made out, is that Europe is insincere; that Europe is rotten to the core. They say that the peoples and the nations of Europe are following self-interest only, and that it is to our self-interest, therefore, to remain out of the League. Ladies and Gentlemen, in the name of all that is reasonable, how is it that self-interest is such a sin on the eastern side of the Atlantic, and such a virtue on the western side at the same time? We fear that it is the United States that is guilty of having looked to self interest too much. The United States gave the League to the people of Europe at a time when we know that they were tired of war, and they took it eagerly from our hands in the hope that they would have the way to peace. And then, our United States left them flat with its own offering. Ladies and Gentlemen, let us look to our own conduct, before we too seriously condemn that of others.

And now, Ladies and Gentlemen, allow me to hurriedly review the situation at the close of this debate. The Affirmative has proven, first, that the United States cannot follow a policy of isolation, because in such a day and age as this, isolation is impossible, and would be to the detriment of both the United States and the world at large. Secondly that the League of Nations is not an experiment, but has actually succeeded in practice; and, finally, that it is to the interest of both the United States and the world at large that we enter the League because it offers the best and only way to secure peace: through arbitration, disarmament, and economic boycott. Ladies and Gentlemen, the Negative has not answered this argument, which is the heart of this debate. They have failed to bring forth a plan for the preservation of peace as good or better than the League of Nations, altho we have repeatedly challenged them to

do so. When they failed in this, they failed to meet the issue in this debate.

We entered the World War for peace, and the voice of every man that died for that cause calls out for the United States to do its duty. Responsible men have said that the next world war is already on its way, with horrors untold. The stakes are too high to admit of further delay. The United States must join the League of Nations in behalf of the peace that the world must have.

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Foreign Policy Association, 3 West 29th St., New York.
League for the Preservation of American Independence, 1 Madison Ave., New York.
League of Nations Non-Partisan Association, 15 West 37th St., New York.
World Peace Foundation, 40 Mt. Vernon St., Boston, Mass.
Issues League of nations, a bimonthly publication.

CHAPTER VI

BOK PEACE PLAN

UNIVERSITY OF CALIFORNIA

RESOLVED: *That this audience should go on record as favoring the Bok Peace Plan.*

This is a report of the speeches of the University of California Affirmative and Negative teams in a dual debate with the University of British Columbia on February 19, 1924. The debates were held simultaneously at Berkeley and Vancouver, each Affirmative team debating on its home platform. Each debate was judged by the audience, as well as by special judges, and victory was declared for the Affirmative in both cases. The speeches as given here are approximately what the California speakers said on the platform. The Affirmative speeches are corrected copies of a stenographic record of the Berkeley debate which was too inaccurate to use. This material was secured thru Mr. Arnold Perstein, Faculty Debating Advisor, and his assistant, Bernard E. Witkin, of the University of California.

BRIEF

BOK PEACE PLAN

AFFIRMATIVE

INTRODUCTION:

A. The Bok Peace Plan was submitted by Dr. Charles H. Levermore in competition for, and was awarded, the prize of $100,000 offered by Mr. Edward Bok for "the best practicable plan by means of which the United States might cooperate with other nations to achieve and preserve the peace of the world."

B. It provides, under certain express conditions, for
   1. Our entry into the Permanent Court of International Justice.
   2. Our cooperation with, and possible later entry into, the League of Nations.

I. Cooperation among the nations is necessary to achieve and preserve peace.

   A. Only through such cooperation can these powerful economic and psychological forces which have driven nations to war in times past be controlled and diverted into other channels.
      1. Increasing means of rapid communication are bringing every part of the world into such close relations with every other part that a problem vital to any one country becomes a problem for all.
      2. It is no longer possible for the United States to remain isolated.
         a. The same forces that compelled us to enter into the war compel us to join our neighbors in the effort to establish peace.

II. The Bok Peace Plan has the elements necessary to provide for this cooperation effectively.

A. It is the best practicable plan from the standpoint of the United States.
   1. It amply safeguards from encroachment—and actually extends—the established policies of our government.
      a. The creation of the Court of International Justice is in itself one of the most fundamental of American ideals, enlarged for the use of the entire world.
         (1) The Bok Peace Plan makes it possible for the United States to become a member under conditions which will amply protect American interests.
            (a) We are not obligated in any way to join the League of Nations as at present constituted.
            (b) We shall have a voice in the selection of judges and payment of the Court's expenses.
      b. In proposing that the United States join the League of Nations, several safeguards are provided by the Bok Plan.
         (1) No obligations of a military and economic nature, under Articles 10 and 16 of the League Covenant, shall be assumed by the United States save by authorization of Congress.
         (2) We shall accept no responsibilities under the Treaty of Versailles, save by act of Congress.
         (3) Membership in the League shall be open to all nations.
         (4) The League shall at once begin a revision and codification of international law under the direction of a commission of jurists.
         (5) The United States accepts the League as an instrument of mutual counsel, provided the Monroe Doctrine is protected and extended as a world policy.
   2. It will have the approval of the people of the United States.

a. It is the crystallized thought of the people themselves during the past six years.
b. It was chosen because it represented the best of the dominating currents running thru the large number of plans submitted for the prize.

3. It makes use of, and strengthens, the existing agencies for peace.

B. The Bok Peace Plan is the most practicable plan for the world.

1. It provides for the wholehearted cooperation of the United States with existing peace agencies.
   a. It provides for our membership in the World Court.
   b. It provides for our full membership in a permanent international conference.
   c. It provides for cooperation in a League which has been purged of all that caused its enemies to hail it as an international sovereignty or as a coercive super-state.
      (1) It provides for the removal of sections 10 and 16 from the Covenant of the League.
         (a) The removal of the clauses will not weaken the League as many think.
            (x) The League has settled a number of international disputes and has never yet invoked sections 10 and 16.
      (2) The League is functioning as the Bok league is intended to function.
         (a) As a permanent international conference, formulating decisions in international disputes, and preventing war through publicity and delay.
         (b) The League has settled no less than four international disputes of major importance during its brief existence.
         (c) It has been the one and only body to pick up and join again the threads of international administra-

tion that were broken by the World War.

(d) It has functioned successfully in the face of great adversities.

(x) All the hatreds and disputes left by the war were its heritage.

(y) It has been ignored by the one nation that could do more than any other to give it strength and prestige—the United States.

C. It is better to cooperate with other nations voluntarily in times of peace than to be forced into cooperation in war.

1. Our experience of 1917 shows that our policy of isolation fails when the nations of Europe go to war.

NEGATIVE

I. The Bok Peace Plan, as a constructive proposal for world peace, is a disappointment.

A. So far as our membership in the World Court is concerned it furnishes nothing new or constructive.

B. Its proposal that the United States continue its cooperation with the League of Nations without actually becoming a member, is nothing more than a continuation of the present foreign policy of the United States.

C. These proposals to cooperate are so trammelled with repeated reservations as to be useless.

1. The cooperation of the United States is extended with the observation that we are to assume no obligations or responsibilities whatever.

II. To endorse this plan would be dangerous.

A. The hazard of self-deception is too great to take for a plan that is meaningless.

1. The present status quo of international relations is highly deplorable and conditions are not improving.

B. To approve the Bok Plan will be wasting precious time which should be used in working out a constructive and practical plan.

III. That it is acceptable to the American people should not be a decisive factor in accepting the Bok Plan.

A. There are undoubtedly, among the twenty-two thousand rejected plans, many others equally acceptable.

B. The plan chosen should be endorsed for its feasibility rather than for it acceptability.

IV. The Bok Plan will not be successful.

A. A plan to be successful must prevent the underlying causes of war, rather than attempt to settle difficulties as they arise.

1. The Bok Plan provides no way to deal with these underlying causes.

a. Economic disputes fall into the class of non-justiciable controversies over which the World Court has no jurisdiction.

b. The League of Nations has shown itself incapable of handling economic problems.

(1) The author of the Bok Plan tacitly recognizes this inability in proposing to abolish Article 16 of the League Covenant.

(2) This failure is due to two reasons.

(a) The League is not administered by business men.

(b) The League prefers to fortify national aims rather than to preserve world peace.

c. The Bok Plan offers no improvements in the plans of the League.

B. World peace is the greatest business problem of today

1. It must be solved by business means.

BOK PEACE PLAN

UNIVERSITY OF CALIFORNIA

Affirmative Speeches Against the University of British Columbia

FIRST AFFIRMATIVE

W. Glenn Harmon, California

Mr. Chairman, Ladies and Gentlemen: There is, I believe, a special significance attached to the gathering this evening. The question which we are to discuss in this, the second annual debate between the University of California and the University of British Columbia, is one peculiarly fitted for discussion by representative schools of these two countries. For nearly a century and a quarter the United States has existed side by side, in peace, with the Dominion of Canada. And in all that time, neither side has found it necessary to become armed,—not a single gun, not a single trench or fortification along the entire border line. There have been disputes between the two governments, disputes at times not untainted with bitterness; but, Ladies and Gentlemen, in all of their difficulties, these two countries have set an example and thrown a challenge to the whole world, for not once has it been necessary to resort to other than peaceful methods of settlement. They have put into actual practice that sentiment expressed by Edward Bok himself, "If we can think and plan and will a war, surely we can will and achieve so simple a thing as peace."

It is, then, with special pleasure that we welcome our northern visitors tonight, to discuss with us the ways and means of spreading our mutual blessing of peace and prosperity throughout the world.

The particular means of accomplishing that purpose which we are concerned with this evening, as the chairman has said,

is the Bok Peace Plan. About a year ago, Mr. Bok offered a prize of $100,000 for the best practicable plan by means of which the United States might cooperate with the other nations to achieve and preserve the peace of the world. More than twenty-two thousand plans were submitted in that competition, coming from persons in all walks of life. From these, the one of Dr. Charles H. Levermore, who was, by the way, a former professor of the University of California, was chosen. This plan provides in brief, for our entry into the Permanent Court of International Justice and our cooperation with, and possible later entry into, the League of Nations,—both under certain express conditions which I shall discuss presently.

We should like to draw your attention first of all to the fact that the plan is submitted as a plan for the *cooperation* of the United States with other nations in the interest of peace. The question before you tonight is, should you go on record in favor of it? To answer that question in the Affirmative, which we hope you will do, you must make up your mind upon two preliminary matters, the first being, do you believe that cooperation among the nations is necessary to achieve and preserve peace? And secondly, if so, does the Bok Peace Plan have the necessary elements to provide for that cooperation effectively?

Now, as to the first of these questions, whether cooperation among all the nations to achieve and preserve world peace is necessary, little need be said, for we believe that the Negative will admit its truth. Only through such cooperation can those powerful economic and psychological forces which have driven nations to war in times past be controlled and diverted into other channels. The world has been steadily growing smaller. The ever increasing means of rapid communication, the ever growing interdependence of one part upon every other part,—these factors are so knitting us together that a vital problem in any part of the globe becomes the problem of all.

There are within our borders certain well meaning persons who insist that the United States has nothing in common with Europe, that we should remain isolated and thereby steer clear of entanglements. With all due respect to those persons, it seems that such a policy is strikingly like that of the ostrich, which, seeing danger approaching, buries its head in the sands, thinking thereby to escape. It seems to me that those persons

have not yet learned the vital lesson of the great war. For nearly three years we tried our best to live up to just such a policy of isolation. But our efforts are futile. When at last we did plunge into the war we did so determined that it should be a war to end war. If we could no longer ignore those forces which bind us to our neighbors, even across the Atlantic and the Pacific, the next best thing was to recognize them squarely, and in conjunction with our neighbors, attempt to control them in the right direction. And we submit, Ladies and Gentlemen, that *any such attempt, to succeed, must have the cooperation of the entire world*, the United States included.

Assuming, then, that the cooperation of the whole world is necessary, we come to the second question, does the Bok Peace Plan have the necessary elements to provide for that cooperation effectively? The Affirmative believes that it has, and for two reasons: It is the best practicable plan from the standpoint of the United States, and it is the best practicable plan from the standpoint of the entire world. I shall confine myself to a discussion of the first consideration, and leave to my colleague the discussion of the second.

Why is the Bok Peace Plan the best practicable plan for world cooperation in the interests of peace from the standpoint of the United States? There are several reasons. The first, and perhaps the greatest, is contained in the proposals of the plan itself—we are to become members of the Court of International Justice, and to cooperate with the League of Nations under certain express conditions, conditions which safeguard and protect from encroachment in the slightest degree the accepted and established policies of our government.

Indeed, Ladies and Gentlemen, the creation of the Court of International Justice is in itself one of the most fundamental of American ideals, enlarged for the use of the entire world. The late Lord Bryce and other noted political scientists have long contended that America's greatest contribution to the science of government has been a Supreme Court, with authority to adjudicate disputes between sovereign and independent states, an authority, mind you, surrendered to it by the states themselves who thereby curtailed their own sovereignty in the interests of peace and harmony.

For more than two decades, at the Hague Conferences, the

United States has been trynig to get the nations to create just such a court to take care of disputes between nations, but our efforts were always blocked by some of the other powers. It remained for the League of Nations, born out of the great war, to succeed at last in borrowing our idea and in establishing such a tribunal with nothing but the force of public opinion to back it up in its decisions. Really, it is paradoxical to say the least, that the United States, the mother and constant champion of the world court idea, should be one of the very few nations which does not yet subscribe to its protocol. The Bok Plan proposes to remove that paradox by our becoming a member upon the conditions set forth by Secretary Hughes, which received the sanction of both President Harding and President Coolidge, namely, that in so doing we in no way obligate ourselves to the League of Nations as at present constituted and that we shall have a voice in the selection of the judges and payment of the court's expenses.

American interests are, you see, amply protected in the first part of the Bok Peace Plan. Now let us turn to the League of Nations. Whether the attitude of our government, in refusing to become a member of the League from the beginning was right or wrong, does not come within the scope of this discussion. We can only recognize facts; and the fact is, that we did not become a member because it was felt that we would be shouldering undesirable obligations of a military and economic nature under Articles 10 and 16 of the League Covenant. It is significant to note, Ladies and Gentlemen, that in an effort to meet us half way and in actual practice, the League has itself, in its interpretation of those articles, gone far toward our viewpoint upon them. But in order to make assurance doubly sure, the Bok Plan expressly recognizes that the only compulsion nations can exert to maintain peace is the compulsion of public opinion; and to that end it provides that we accept absolutely no obligations under those two articles save by authorization of Congress. And furthermore, the United States proposes that they either be dropped altogether, or be so amended as to eliminate any suggestion of the use of coercion. Another safeguard along the same line, is that in proposing our cooperation with the League, we accept no responsibilities under the Treaty of Versailles save by the act of Congress.

There are three other conditions attached to our cooperation with the League which are a part of the plan, the first being that membership in the League be opened to all nations. The second is that the League shall at once take the proper steps to begin a revision and codification of international law under the direction of a commission of jurists. And finally, that while the United States accepts the League as an instrument of mutual counsel, it does so under conditions which protect and actually extend as a world policy the Monroe Doctrine.

And so, Ladies and Gentlemen, we see that the Bok Peace Plan amply safeguards from encroachment—and actually extends—the established policies of our government. Let us turn now to the factors which make it practicable.

Our friends of the Negative may perhaps have some proposal which they will offer as a substitute for it. Before they do so, I would remind you that *any* plan, to be practicable, must secure the approval of the people of the United States. It must run the gauntlet of American public opinion which the League of Nations originally attempted to run and failed; and if the gentlemen offer such a plan, they must prove conclusively that the substitute will succeed not only in securing American approval, but in securing the support of the rest of the world as well. It is in these two respects, where a new plan, a substitute, would be doomed from the beginning, that the Bok Plan has already shown itself so signally successful, so eminently practical.

It has been criticised because it is said to contain nothing new. These critics do not realize that it is the very lack of the new and startling that is the plan's chief virtue. It is not the freak child of a fanatic's brain; it is rather the crystallized thought of the last six years, of the people themselves, of those who bore the brunt of the war, who have listened to the shouts of dissatisfaction at the League, who have become convinced that American rights must be protected, but that America none the less must do her duty and assume her share of the burdens if she is to keep her faith with the dead she left in France.

And so the Bok Plan was born. In the statement which accompanied its publication, we are told that there were certain dominating currents which ran throughout all of the plans submitted, and this one was selected because it best represented all

of those currents. A compromise? Yes! But a compromise which lifts the matter out of the mire of partisan politics at last, and makes a constructive forward step possible; a compromise which is not only acceptable to the people of the United States, as shown in the recent referendum, but to the whole world; which, as my colleague will show, makes use of and strengthens the existing agencies for peace among men. Why, our Constitution itself has been properly described as being a tissue of compromises. Only because of that fact was it at all possible to adopt the Constitution. The Constitution was an experiment in every sense of the word from the very beginning, and it hadn't even had the advantage that the Bok Plan has had of having its underlying principles tested.

And so we say, Ladies and Gentlemen, that it is in the very field in which a new plan would be doomed to failure that the Bok Plan is so eminently practicable. It has received the approval of the people of the United States, not only because it best represents the mass of plans submitted, but because of its tremendous vote of approval. It will be acceptable to the rest of the world because it doesn't throw into the scrap heap, but rather makes use of and strengthens the existing agencies for peace.

Mr. Bok has been accused of spreading propaganda. Ladies and Gentlemen, if that be true, we too are here to spread that same sort of propaganda—educational propaganda in the interests of world peace. We cannot further the cause as he has, by a generous donation of money, but we do hope to do our bit by bringing home to you the fact that a forward step is at last possible, that the Bok Peace Plan is the best practicable plan to secure the cooperation of the United States with other nations to achieve and preserve world peace. We would have you appreciate with us, that the plan will end our policy of isolation, that it amply protects and actually incorporates as world policies the established principles of Americanism, that it provides a compromise ground upon which the matter is lifted from the mire of partisan politics, and upon which the people of the United States and the people of the world can meet.

As Mr. Bok says, "...this isn't my peace plan. I merely happen to be the agent. It is the peace plan of the American people, and I hope that it brings repose to them and the rest of the world."

SECOND AFFIRMATIVE

Raymond G. Stanbury, California

Mr. Chairman, Ladies and Gentlemen: The gentleman who has just left the platform has placed a few momentary obstructions in my path, but before I remove them let me remind you of our purpose this evening: We of the Affirmative are supporting the Bok Peace Plan for one reason only—because we believe it to be the best practicable plan by which the United States can cooperate with the other nations of the world for the preservation of world peace. You will remember that my colleague asked himself one question concerning this plan: "Is it the best plan for the United States?" He has answered it in the affirmative. Let us now ask ourselves another equally pertinent question: "Is the Bok Peace Plan the best practicable plan for the world?" That is, does it contain the agencies necessary for the solution of international disputes? If we fail to answer this question also affirmatively, and prove our answer, we realize that we have indicted our case for the Bok Plan.

But first let me meet the rather unique objection to the plan which has been advanced by the gentlemen of the Negative. They have launched an attack which would be fatal indeed if true. They tell us that the Bok Plan doesn't mean anything, that it is a mere formulation of our present foreign policy in high sounding but empty phrases. Ladies and Gentlemen, such an objection could arise from only two possible sources—either from a misunderstanding of the Bok Plan itself or from a misunderstanding of America's present foreign policy. As far as our attitude toward the World Court is concerned we are merely tolerating it. We have done nothing as a nation to aid it. Through the courtesy of foreign nations we have, as our opponent has said, a citizen of our own country upon its board of judges but we have done nothing whatever toward lending our support to strengthen it. And as far as our present cooperation with the League of Nations is concerned it consists mostly of semi-official consultation with three or four of the administrative commissions of the League. We have nothing whatever to do with the peace producing agencies of the League. We are not represented in the League's Assembly or Council where the real disputes take place. Nowhere in the League's organization is the voice of the United States raised in behalf

of international peace. That is our present foreign policy. Our opponents tell us that it is also the Bok Peace Plan, but is it? We think not. The Bok Plan goes a great deal further.

The plan provides for the wholehearted cooperation of the United States with the existing peace agencies—slightly modified so as to safeguard American interests. It provides first of all for our membership in the World Court, which is only a small part of the world's peace machinery, and secondly for our full membership in a permanent international conference. It provides for cooperation with a League which has been purged of all that has caused its enemies to hail it as an international sovereignty or as a coercive super-state, which objections kept us aloof so far. The Bok Plan provides that sections *10* and *16* be removed from the League's Covenant, thereby making the League in reality what it has proved to be in practise—an international conference for the settlement of international disputes, a conference which works for peace through the medium of public opinion, publicity and delay during which war hysteria cools. Our opponents make much of the fact that the United States is not to interfere in the internal affairs or in matters concerning the political policy of any nation. The gentleman of the Negative has read to this effect from the text of the plan itself. But it is unfortunate that he stopped where he did and failed to read you the last half of the same sentence which provides that the United States will accept the League as a body of mutual counsel and consent—an unequivocal assumption by the United States of its duty to aid in the peaceful settlement of disputes by the use of diplomacy rather than of arms and boycotts. The type of interference which the United States refuses to make is physical interference, interference by force of arms, which is already recognized by enlightened peace advocates as impossible. With regard to that method of settling disputes the United States may well regard the cure as a greater evil than the disease.

The opponents of the Bok Plan argue that such a League as is contemplated by the plan, without power to take peremptory action, would be useless; that it could not enforce its decisions and would therefore be futile and die of its own impotency. But here again they ignore the facts of past experience. Articles 10 and 16 seem to them to be the heart of the League and if this is true the League indeed has a weak heart;

for although the League has settled a number of international disputes and has made itself felt in innumerable directions, it has never once invoked sections 10 and 16. The League has declared no boycotts under section 16 and it has ordered no troops into the field under section 10. It has accomplished a great deal, but it has worked unaided by these cherished sections. It has functioned as the Bok league is intended to function: as a permanent international conference, formulating decisions in international disputes, and preventing war through publicity and delay.

The League has settled no less than four international disputes of major importance during its brief existence. We remember the bitter controversy shortly after the conclusion of the World War, between Sweden and Finland, over the disposition of the Aaland Islands. Every effort was made by the two nations to settle the dispute peacefully but diplomatic channels were completely exhausted without result when an appeal was made to the League. The League settled it. Did it use sections 10 or 16? Did it declare an economic boycott against Sweden or against Finland? It did nothing of the kind. It simply rendered a decision which embodied the maximum advantages to both contestants.

Again, we must remember the heated Silesian controversy which nearly disrupted the Entente. The Allied Supreme Council failed utterly in its attempts at settlement and finally the League was appealed to. Fortunately for world peace there was such an agency to receive the dispute and another problem was peacefully settled.

We have a third example in the border controversy between Albania and Serbia which threatened serious consequences. Albania was left after the war without a frontier other than a great no-man's land which was claimed also by Serbia. The peace treaty left this distressing problem to the Conference of Ambassadors for settlement but the conference showed its respect for the situation by ignoring it completely for nearly two years. Finally Serb troops began to mass against the frontier and Albania was left to choose between war or diplomacy. Fortunately again for world peace the League was there with its good offices. It despatched a committee of enquiry and brought about a quick settlement of the controversy through the Conference.

Finally, in 1923, when Italy seized Corfu, Greece faced the same problem as Albania had faced earlier—war or diplomacy. And it was the Council of the League of Nations which formulated the solution of the problem, ultimately executed with slight modifications, by the Conference of Ambassadors. In all these cases the League has averted international violence and in not one of them has it used physical force or coercion of its own. In each case it has prevented conflicts by its very existence—as a body to receive the appeals of nations which would otherwise be forced to resort to war.

But this is not all that the League has done. It has been the one and only body which has been able to pick up and join again the threads of international administration which were broken by the World War. It is the League which is now suppressing odious traffic in opium and in women and children. It was the League which stepped in and repatriated over four hundred thousand ex-prisoners of war. And it was the League of Nations which took over Austrian finances and saved that country from complete financial disaster after every financier on the continent had predicted her inevitable collapse, and after every other source of relief had failed. These are only a few examples of what the League has done. It is significant that in every case the League which has accomplished these results has been in reality the Bok Peace league itself.

Ladies and Gentlemen, the League of Nations has done much, but there are two reasons why it has not done more. The first of these is because it has been functioning in the face of the most frightful adversities. The innumerable hatreds and disputes left by the war were the heritage of the young and struggling League of Nations. There could scarcely have been a more unfavorable moment in all history for the establishment of such a body. It is remarkable that it has survived at all and yet, as Sir Robert Cecil has said: "The League has done so much good work that we are forced to wonder what the world would be like today had it been without it." But the second reason why the League has not done more is of peculiar significance to us—and that is that the League has been ignored by the one nation which could do more than any other power on earth to give prestige to its tribunals and strength to its decisions. The United States, whose aid would have meant such a great deal, has done nothing whatever thus far. As Professor

Manley O. Hudson of the Harvard Law School has said: "The League without the United States is not a League—it is only half a League." The League without the United States is a table standing upon three legs but it is significant that the table stands despite this handicap.

Ladies and Gentlemen, the nations of Europe are not asking for American gold or for American soldiers. The Bok league, without sections 10 and 16, has need for neither. But what they do ask for, and what American self interest demands, is the injection of America's impartiality of view into the deliberations of the League to give it strength and prestige and to make it a greater power for peace. The League has done much without us. How much more can it do with us? It has been the only agency for the preservation of peace in existence since the war and yet we, who place so high a price upon world peace have, alone among all the great nations of the world, ignored it.

Our policy of isolation has failed once. We were shown in 1917 that while we are able to remain aloof in time of peace, we are inevitably embroiled when the nations of Europe go to war. It behooves us to exert a great effort to have a hand in preventing another world holocaust such as occurred with such disastrous effects to all in 1914. But the demand which the Bok Plan makes of us is a simple one. We support the Bok Plan because it makes the cooperation of the United States *safe* and *practicable.*

And let us remember, Ladies and Gentlemen, that in the last analysis we are asked to choose between two alternatives—shall we send three or four peaceful representatives, judges and statesmen, to have a hand in untying the knots of the future, or shall we wait one decade or two and then send over half a million representatives in khaki to fight for a peace which has already been disrupted?

FIRST AFFIRMATIVE REBUTTAL

W. Glenn Harmon, California

Mr. Chairman, Ladies and Gentlemen: There is an old adage to the effect that you should never tear down your neighbor's house unless you are ready to supply him with another and better one.

We realize full well that according to the best rules of debating there is no imperative duty upon the Negative to offer a substitute plan, but we cannot help but feel that the Negative case would be infinitely stronger if it did follow the spirit of that old adage, and offer us a substitute.

But the Negative has contented itself with trying to demolish our beautiful structure about our ears, and leave us stranded among the ruins, with the storm clouds of war thickening every moment and no prospect of shelter in sight save their vague but hopeful suggestion to wait a while,—perhaps some brand new house will suddenly appear by our side and shelter us before the storm breaks.

Ladies and Gentlemen, it isn't human nature to wait under such circumstances; and being human, we cannot but begin to take stock of our situation and see if some sort of shelter cannot be constructed from the "ruins." And lo, we make a discovery: the foundation and first floor of our house is still intact! It is not even touched. Our friends have been so interested in trying to demolish the roof that they have left entirely unchallenged and thereby admit the first two basic propositions of the Affirmative case, namely, that *some sort* of cooperation in the interests of peace is absolutely essential, and that the Bok Peace Plan is the best practicable plan for that cooperation from the viewpoint of the United States.

In fact, the whole burden of the first Negative speaker's argument is that this foundation and first floor already exist,—that we already have a sort of relationship with the World Court and League of Nations. Reduced to one sentence his argument is simply this: because the fundamental principles of the Bok Peace Plan already exist, therefore we should not adopt the Bok Peace Plan.

There are only two ways, Ladies and Gentlemen, of validly drawing such a conclusion. The first is, that our experience with those fundamental principles is such that we should discard them entirely. And if that is true, may I point out once more that the Negative has given us absolutely nothing to take their place? But we don't need anything, because the Negative hasn't supported the idea with a particle of proof, nor even suggested that we drop our present relationship with the court and League.

The second way of reaching that strange conclusion is the

one which the Negative seems to be following, for they make the very naive suggestion that although these fundamental principles exist, we should not adopt the plan because we will immediately suffer from the hallucination that the plan is infallible to accomplish its purpose, and we shall straightway close our eyes to every other plan which may be suggested and which *may* have greater virtues.

I cannot believe that the gentlemen are serious in that argument. Why don't they bring out some other plan to be discussed on its merits side by side with the Bok Peace Plan, instead of leaving us vague suggestions that get us nowhere? Look at that argument a moment, Ladies and Gentlemen: does human experience bear it out in the least? When the first automobile was invented, did man become so enamored of it that he shut his eyes and ears to all else along the same line? The automobile came to fill a very definite need. Man wanted to be transported from one place to another in the shortest possible time. And the automobile was steadily improved upon every year, every month, almost every week so as to more nearly fill that need. The result is a machine vastly different in appearance and in results from the first crude model. But Ladies and Gentlemen, the fundamental principle which made it go, the exploding of gas in a cylinder to make a piston move, is absolutely the same today.

Do you think we should have had the automobile of today if the public had ordered the original inventors to discard their models because there was grave danger that they would become so satisfied with them as to shut their eyes to all else? Do you think that man would have made progress in any direction—mechanical or social—if he proceeded upon that principle?

That isn't the idea of the Bok Peace Plan any more than it is the idea back of our mechanical progress. The plan is offered only to furnish a working basis for our foreign policy. It is not perfect; the Court is not perfect; the League is not perfect. They are not offered to you as such. But they are offered as a practical beginning, and Ladies and Gentlemen, the underlying conception of cooperation and mutual helpfulness is just as basic and unchangeable in them as is the fundamental principle of the gas engine.

And it is a decided step forward. I would remind our friends of the Negative that our present relationship with the

World Court is solely due to the courtesy of its members, who elected an American to the bench. It is true that we are in a position to receive the benefits of the Court. But it is not true, and never has been, that the American policy is to take and give nothing in return. And we refuse to trust our interests to the future courtesy of nations, however well disposed they may be. We prefer to meet them upon an equal plane, giving value for value. It is unquestioned, save by our opponents, that we will be giving value, and greatly aiding the Court and the League in their task of creating and preserving peace and goodwill by offering to join them and cooperate with them.

Time will not permit us to proceed further in this tour of investigation of the havoc our friends have tried to work with the structure of our plan. We have found that the foundation and first floor are absolutely intact, that the principle of cooperation to achieve and preserve peace is recognized by both sides, and that the Bok Plan is the best practicable peace plan from the point of view of the United States. It does away with isolation, it protects and incorporates as world policies American ideals, and it furnishes a satisfactory ground of compromise for us and for the whole world. To return to the analogy of the house, there seems to be quite a bit of shelter left in it yet, and we seem to be none the worse after all for the thoughtlessness of the Negative in failing to provide a substitute. I shall leave it to my colleague to continue the investigation and show you that the rest of the house is still intact,—needing a little patching here and there, perhaps, as indeed any house does from time to time. I am sure, however, that if we always have with us such keen, discerning eyes as those of our friends of the Negative, we will always discover the weak spots in ample time to keep out the elements!

SECOND AFFIRMATIVE REBUTTAL

Raymond G. Stanbury, California

Mr. Chairman, Ladies and Gentlemen: Our opponents have sought to discredit the Bok Peace Plan in a most strategic fashion. They have attacked the plan as a whole and then they have proceeded to dismember it and attack its various parts. They have told us that the entire plan is meaningless and that its com-

ponent parts are defective. To substantiate their first charge they have branded the plan as a mere embodiment of our present foreign policy—a charge which I believe I disposed of a few minutes ago. The Bok Peace Plan and the present foreign policy of the United States are very different indeed—as different as cooperation is from toleration. Today we are merely tolerating the League and the court; under the Bok Plan we would foster and aid them. Our opponents' difficulty on this point arises from their misconception of the plan itself—a fact to which I have already called attention. They believe that since the United States is to undertake no obligation of physical interference with other nations, we are to undertake no obligations whatever and will therefore stand in substantially the same position as we do today. But let me remind them that they have failed to show us a single example in which the League has ever called upon its members to exert physical force in either a military or economic sense. Not only have they failed to show us such an example but we have sketched to you every peace move which the League has made and have shown you that in each the League has functioned as the Bok league is intended to function—as a permanent international conference, possessing only advisory powers, and the power of causing delay at times of international friction. It is quite evident when the plan is clearly understood that the United States is to assume an active part in the settlement of international disputes if she adopts it. The proposed policy is a very different one from that we are now pursuing.

Next the gentlemen of the Negative have aimed their attack at the World Court, part number one of the Bok Plan. They tell us that the World Court cannot avert wars because it settles only justiciable disputes whereas the overwhelming majority of wars in the past have arisen from non-justiciable controversies. This is very, very true. I believe that we have called attention to the same fact. The World Court was designed to settle only justiciable disputes so it should occasion little surprise that it has confined itself to them. If the World Court were advanced alone as a peace agency this fact would be a sufficient indictment, but the gentlemen of the Negative should remember that the Bok Plan is a double barelled instrument and they must not condemn it because one of the barrels does not do all of the work. They must remember that the Bok Plan also includes

a league, a permanent international conference, which is designed to fill the very gap complained of in the World Court. While the World Court confines itself to justiciable disputes, the League of Nations is expressly designed to settle non-justiciable disputes. Thus the Bok Plan contains agencies for the settlement of justiciable and non-justiciable disputes, and our opponents' objection crumbles into nothing when we consider the plan as a whole.

The Negative next objects to the League as it would exist under the Bok Plan. They tell us that a League without power to act is no better than no League at all. I feel that this point is too old at this stage of the debate to warrant more than momentary attention. The gentlemen have not denied the accomplishments of the League as described by us and we have shown you that these accomplishments have been made through the use of no instruments other than those possessed by the Bok league. If so much emphasis is to be placed upon sections 10 and 16 which constitute the only vital difference between the present League which has done so much and with which our opponents do not quarrel and the Bok league to which they are so bitterly opposed, it would seem reasonable that there should be some instance available in which one of those sections has been placed in operation. But, Ladies and Gentlemen, our opponents have failed completely to provide us any such example. Sections 10 and 16 have never been used in furtherance of the aims of the League. The only thing that they have done, as far as we are able to see, is to win for themselves sufficient prejudice to keep the United States out of it. It was our fear of the potentialities of those sections which kept us from joining the League in 1919. The gentlemen of the Negative have founded the greatest portion of their case upon the necessity of retaining sections 10 and 16 in the League covenant and yet they have failed to show us that these sections which they prize so highly have ever been of practical use, that they have ever been anything but liabilities. And to dispose of them once and for all let us remember that every nation in the League save two have gone on record as favoring their being dropped from the Covenant! The two exceptions to this movement were the tiny states of Persia and Panama.

We have supported the Bok league this evening because we realize that the day when isolation and security go hand in

hand has passed. We witnessed the failure of that policy in 1917 and our problem today is to find the most effective means of cooperating with the other nations of the world in preventing wars in the future. Whatever the vehicle of our cooperation is, it must be a safe one. It must be one which will safeguard us against unwanted foreign entanglements. The Bok Plan does this. It must be one which contains the necessary agencies for the settlement of all international disputes, justiciable and non-justiciable. The Bok Plan has these agencies. And lastly, it must be one which makes use of *existing* peace agencies, for this generation will never look with favor on the disruption of those agencies already established and proving their worth, in favor of some new and untried scheme. The plan has this advantage also.

The Bok Plan is the inevitable forerunner of any peace plan which may be evolved in the future. Permanent peace may be an impossibility but we know for certain that the old order will continue to prevail unless we can pave the way for an international harmony and accord instead of friction and discord. If this end is possible it will come only by first of all assembling the representatives of the nations of the world around a conference table. The Bok Plan provides this conference, and that is why it is the inevitable forerunner of any change for the better.

The Bok Peace Plan offers the best practicable method by which the United States can cooperate with the other nations of the world for the preservation of world peace. For this reason, Ladies and Gentlemen, we ask you to go on record as favoring it.

Negative Speeches Against the University of British Columbia

FIRST NEGATIVE

Harold G. Balter, California

Mr. Chairman, Ladies and Gentlemen: We of the University of California are indeed happy to take part in a discussion, the keynote of which is *peace*. For there are no countries that understand better than do Canada and the United States

what the blessings of peace really mean. Were only the rest of the nations of the earth blessed with such friendly understanding as exists between us, then no doubt a quest for peace plans would be unnecessary. Yet, the truly unique feature of tonight's meeting is that you—Canadians—are to render your decision which primarily concerns the United States. So, although it is undoubtedly true that Canadians and Americans have a similar point of view regarding most subjects, yet we feel that it is only proper to submit that when you weigh the arguments for and against the Bok Peace Plan, your guiding consideration ought to be—not what the Bok Peace Plan will mean to Canada, but rather what it will mean to the United States and to the world.

All of us, no doubt, anticipated with keen interest the announcement of the Bok Peace Plan. Here at last, we thought, would be offered a constructive proposal for world peace. But I believe that those of you who have followed the international situation will agree with us, that after we had read and re-read the plan, it left us with but one impression,—a keen sense of disappointment. Some of you may no doubt inquire, why is it that such a high-sounding plan should be so disappointing? So for that reason, we would point out that the common-sense test of any plan purporting to deal with the problem of an American contribution toward world peace, is simply this: Is *this* plan the *best contribution* that the United States can make toward world peace? That should be our primary consideration. And so it is not in the spirit of obstructionists, but rather in the spirit of persons sincerely desiring to see the United States make a worthwhile contribution toward world peace, that we wish to test the Bok Plan.

It seems almost perfunctory to reemphasize at the outset the ineffectiveness of the present efforts that are being made for the preservation of the peace of the world. The fact that we are feverishly searching for peace plans is evidence of the futility of those efforts. War, hatred, deep-seated animosities are still rife. Militarism and chauvinism rule Europe. France has recently loaned 800,000,000 gold francs to Poland, Roumania, and Juglo-Slavia, for the express purpose of arming these nations. And the tragic part of the whole situation is that the present agencies set up to deal with it are daily becoming less able to cope with the fundamental problems involved. The

World Court, for example, which by its own Protocol is limited to purely legal questions, which rarely, if ever lead to war, is not permitted by the great powers to deal even with these relatively unimportant justiciable controversies. And the once cherished League of Nations has shown itself impotent to handle the brutally practical problems brought about by an increasing national conflict of economic interests. Some have rightly said that if we are to crush the seeds of future wars, which are unfortunately so well nourished by the present status of international relations, then the help of the United States must be obtained. That, then, is our common problem: How best can we bring to bear the help of the United States in our endeavor to promote world peace?

This being our problem, how does the Bok Peace Plan propose to deal with it? My opponent has already told you in general terms what the plan is. He has used the language of the sugar-coated official Summary, a document, millions of copies of which have been distributed in advertising the plan. But we propose to analyze the Bok Plan itself, and to examine the specific proposals the author has advanced to deal with the problem of American contribution toward world peace.

Dr. Levermore makes three definite proposals. We shall consider the third one first, because the writer himself seems to consider it of little importance. It is that the United States immediately become a member of the World Court. In the official Summary, United States membership in the court was set up as one-half of the entire plan, but Dr. Levermore himself devoted but forty-one out of two thousand words to that proposal. Now how will the United States contribute toward world peace by becoming a member of the World Court? It is interesting to note that at the present time the United States is fully empowered to submit to this tribunal any controversy which comes within its jurisdiction. She may be plaintiff or defendant; and there is even now an American jurist on the court's bench. As a matter of fact, the only change in the present situation that would take place, were we to join the World Court, would simply be that together with fifty-four other nations, we would elect the court's judges, and share in its expenses. And frankly this seems to be a fair proposal, for since we are actually sharing the privileges of the court, we ought to share its expenses. But, Ladies and Gentlemen, what has this to do with a construc-

tive plan for American contribution toward world peace? Is this eliciting the aid of the United States for the purpose of securing that peace? The facts supply our answer; as far as the third definite proposal of the Bok Peace Plan is concerned, it is simply a statement of an existing fact.

What else does the Bok Peace Plan purport to do for an American contribution toward world peace? The Summary states that without becoming a member of the League of Nations the United States is to continue its present cooperation with the League. The Affirmative considers this proposal of great significance; but let us determine exactly what the author of the plan means by American cooperation with the League. This subject constitutes the author's first and second definite proposals, which are: First, and I quote directly from the plan, page 9, "without any change in its present policy, already described, the United States government could first, show its willingness to cooperate similarly with the other humane and reconstructive agencies of the League. To four of these agencies that government has already sent delegates with advisory powers; it could as properly accept invitations to accredit members with like powers to each one of the other welfare commissions." And here I quote again from the plan, page 10, "It is secondly immediately practicable to extend the same kind of cooperation, whenever asked to do it, so as to include participation in the work of the commissions and technical committees of the labor organization. The record shows that such cooperation *has already begun.*" Ladies and Gentlemen, notice throughout the definite proposals, a careful repetition of the phrase "without any change in the present policy." Here is a frank admission by the author himself that the plan is to be nothing more than a *continuation* of the present foreign policy of the United States. That the United States is now officially or unofficially represented on practically all of the League humane commissions and committees is perfectly true. That work is commendable and ought to be continued. But we are frankly puzzled at how this plan purports to deal with the underlying problems of war and peace. How are you going to obtain any beneficial results by the mere writing into official form of what is now being done officially as well as unofficially? And how can the present policy of the United States prove adequate to handle the multifarious conflicts of interests that nourish the

seeds of war? Our opponents may reply that once we put on paper what we are actually doing now, great changes will be brought about, and the United States will begin to take an active hand in world affairs. But, Ladies and Gentlemen, we submit that the plan by its own terms prevents the very thing. For even this half-hearted proposal to cooperate in the purely administrative work of the League, that has so little to do with the underlying problems of peace, is trammelled with repeated reservations, the common tone of which is that the United States extends this cooperation with the express reservation that she is to assume no obligations or responsibilities whatever in any of the League's activities. To what, then, does the whole proposal of cooperation with the League of Nations amount? Nothing new is advanced; nothing constructive is offered. It is simply a statement on paper of an existing fact.

Ladies and Gentlemen, our analysis of the whole problem has brought out certain facts which we believe are rather evident. We have seen, first, that the *status quo* of international relations is highly deplorable, that the seeds of war, instead of being crushed, are being nourished; and we have all agreed that the United States must contribute its efforts toward the attainment of world peace; the United States must do something constructive, something real, something vital. Then we saw that the plan which you are asked to approve is an empty statement—it advocates no change in the present foreign policy of the United States; and it proposes as a serious and constructive step toward world peace a formulation on paper of an existing unsatisfactory condition. May we submit, Ladies and Gentlemen, that at this time when people are weary of war, and their faith in the efficacy of human efforts to avert war is gradually waning, it is dangerous to endorse anything which is not *positively beneficial.* The hazard of self-deception is too great a risk to take for a meaningless peace plan. If we approve the Bok Plan—which as far as dealing with the fundamental problems of world peace is concerned—is frankly a farce—we are wasting precious time which should be used in working out a constructive and practical peace plan. Should the United States adopt the Bok Peace Plan, she will be like the man who sallies forth to battle in what he believes to be a bullet proof armor, but which in fact is no protection at all; he is far worse off than the man who knows that he is unprotected and acts accordingly.

Frankly, Ladies and Gentlemen, my colleague and I as citizens of the United States would be keenly disappointed if our country were to be permitted to shirk her responsibilities toward world peace, by accepting such a farce as this so-called "peace-plan." And if you too are truly desirous of seeing the United States do something worthwhile for the cause of world peace, if you do not wish to give the United States a legitimate excuse for abandoning her present efforts to utilize her vast powers in the interests of world peace, your should not favor the Bok Peace Plan. It is a futile and unworthy substitute for a genuine American contribution toward world peace.

SECOND NEGATIVE

J. Philip Wernette, California

Mr. Chairman, Ladies and Gentlemen: Like a distance runner who in the last lap of the race calculates as he runs the distance yet to go and his remaining strength, we may well, before concluding the constructive speeches, examine briefly the course of the debate.

The "common ground," admitted to be true by both sides this evening, proved to be rather meager, consisting of this admission: Present efforts toward world peace are unsatisfactory, and we are concerned with new plans. But from this point on, divergence has been radical and complete, and it is our contention that practically the entire Affirmative case finds its refutation in the remarks of my colleague. If his contention stands, (and we believe that it does) it is of no moment for the Affirmative to attempt to hold to the necessary Affirmative argument that the Bok Plan is the best practicable plan. To their contention I would reply with the question: How can a mere paper statement of existing conditions which were admitted by both sides to be unsatisfactory be the best practicable plan for a United States contribution toward world peace?

Of course, the Affirmative has not admitted that the Bok Plan is merely a statement of existing conditions, for such an admission would seriously endanger, if not entirely invalidate their case. But how have they met the grave charge? Here again has occurred a fundamental difference in method: the Affirmative has defended the plan with reference to the sum-

mary; the Negative has attacked it with quotations from the plan itself; the Affirmative has been vague and indefinite, with reiterations of "cooperation" and "support;" the Negative has been accurate and definite, pointing out from the plan what its provisions and restrictions are, and wherein they provide nothing in advance of present inadequate efforts. We maintain that the Affirmative has not met the argument of my colleague squarely, and that their position requires complete vindication of the plan, for his exposition of its real nature—its actual lack of substance—indicates that the Affirmative contentions are based upon a plan differing from the actual one.

Further, the Affirmative has made much of the "acceptability" of the plan to the American people. In agreeing with my opponent that whatever peace plan is to be adopted must have the approval of the majority of the American people, I cannot agree that this is a decisive factor in favor of the Bok Plan. Until the Affirmative shows that this plan is the *only* plan which meets with the approval of this majority of the American people, we may rightly contend that of those plans which are acceptable to the majority, that one which is the best *peace plan* must be chosen. We of the Negative maintain unequivocally that there are, either among the rejected twenty-two thousand plans, capable of formulation, many other plans equally acceptable to the American people, and that hence, our scrutiny should be to the end that from these acceptable plans, that one should be endorsed which is the best peace plan. In brief, *feasibility* rather than *acceptability* is the sought-after virtue among peace plans.

Success will attend that peace plan which prevents the underlying causes which give rise to war rather than to that which attempts to settle difficulties when they arise. And I am not upon argumentative ground in giving the conclusion of historians, political scientists, and economists, that to an increasingly predominant extent these underlying causes are economic. The murder of an archduke might have been amicably settled, but not so the problems arising from Anglo-German trade rivalry, Franco-German trade rivalry, the German "Drang nach osten" or trend toward the east, and the Berlin-Bagdad railway and Austrian and Italian economic ambitions.

It is our contention that the Bok Plan provides no ways to deal with these economic factors which must be constructively

solved, because it is upon a fundamentally wrong basis—international political machinery.

Students of international problems generally agree that economic disputes fall into the class of non-justiciable controversies, over which the World Court has no jurisdiction. This is, I feel, rather obvious. And, as my colleague has pointed out, the Bok Plan introduces no changes in the status of the Court. So we may fairly conclude that the past history of the Court will be duplicated in the future and that it will not be a factor in the prevention of economic disputes.

Further, it is peculiarly significant to notice that the League of Nations has shown itself to be incapable of handling economic problems. I need not go into detail upon familiar ground. Despite "explanations" and "reasons," including the familiar but invalid one of United States' non-participation, the League has proven impotent to deal with the business of the world peace. The Ruhr debacle, the indemnity and reparations settlements, the disgraceful failure of the mandate system, the conflict of interests which has prevented rehabilitation of central Europe and the failure to handle the settlement of war debts are outstanding examples of its "Do nothing" policy.

Indeed, the author of the Bok Plan tacitly recognizes this inability in proposing the abolition of Article 16 of the League covenant, in saying: "Articles 10 and 16, in their original forms, have therefore been practically condemned by the principal organs of the League and are today reduced to something like innocuous desuetude."

This failure is due to two fundamental reasons: First, the League *cannot* handle economic problems because it is not administered by business men. True, there are economic commissions to *advise,* but the *decisions* and *administration* are not in their hands, but in the hands of diplomats, who are out of their field in dealing with economic problems. The international chessboard of today is covered with strange and terrible figures—of iron, gold, markets, routes and credits—with new and unusual moves, while the players are those of another day and another game, whose incapability means defeat at the hands of the grim enemy across the board. Secondly, the League *will not* handle economic problems toward the end of preserving world peace, preferring rather to fortify national aims. The dominance

of the "alliance of the victors" has made the League of Nations a sort of international grab-bag for its leaders.

It is upon this swiftly collapsing agency that the Bok Plan proposes—not improvements (were they possible), but further restrictions and emasculation.

As my colleague has pointed out, of reservations there are plenty, but of improvements there are none—no provisions for dealing with these fundamental economic forces. In vain we search for an answer to the question: What constructive solution does the Bok Plan offer for the prevention of difficulties arising from tariffs, communication, transportation, banking, and trade routes?

Using the world "business" in its broadest sense, world peace is the greatest *business problem* of the day, and if it is to be solved, the only way it is possible is by business means. As in every great industry, so in international relations, advice, decision and administration are business duties and should be handled by a business organization. Although this is a fundamental change, it is not a new one, for the trend is visible in the city manager system, in the state government's administrative commissions, and it is even prophecied that at some time in the near future the most important Federal official, next to the President of the United States himself, will be the Director of the Budget. And in world affairs, no closer international cooperation was ever attained than that achieved by the four supreme Inter-Allied War Commissions, whose significant feature, as in the preceding instances, was that they were non-political—advice, decision and administration were all in the hands of business men.

Nor is it to be wondered at that the Bok Plan contains no such provisions, when the personnel of the Jury of Award is considered. All honor to the integrity of the men and women who composed that board! But consider: three diplomats, two educators, one editor and one army officer. No economists, no financiers and no business men!

It is not the duty of the Negative, either in debating technique or in the walks of life, to outline in detail a counter plan. Indeed, due to the wide range of choice and the necessity for careful selection, it devolves more than usually upon the Affirmative to show that this plan is sufficiently better than any or all others to warrant their exclusion. The task of our

opponents, however, is greatly simplified by the inoffensiveness of the plan, the advertising which it has received, including the subtle changes in the official Summary, and our eagerness for peace, which would cause us to seize upon anything titled "peace plan." But we of the Negative do not believe that this is the time to blind ourselves to the facts, and ostrichlike seek to avoid the coming storm by sticking our heads into the sand. We sincerely wish the United States to do something fundamental and effective toward the cause of world peace, and frankly, were it not for the gravity of the situation, we would be amused at the perfunctory and wrongly directed efforts of the Bok Plan.

For if war is dangerous, to adopt such neglible efforts is equally dangerous, for whatever plan is adopted, to that plan we shall stick with stubborn conviction until mortal error shows the mistake. At such a critical juncture, to adopt the meaningless misdirected plan is worse than adopting none at all, for it gives a dangerously false sense of security and accomplishment.

We do not intimate that we are filling the shoes of those immortals in saying that it is harder today than it was in the days of Socrates, Galileo or Copernicus, to sway the trend of popular thought. To them was given a lifetime and they converted but a few. To us is given forty-four minutes to plead for adequate deliberation and constructive action along lines fundamentally different from those followed by the Bok Peace Plan, but wholly in keeping with the trend of world problems of the day.

FIRST NEGATIVE REBUTTAL

Harold G. Balter, California

Mr. Chairman, Ladies and Gentlemen: In opening the rebuttal for the Negative, it might be of value to examine the arguments for and against the Bok Peace Plan and to endeavor to determine exactly how they stand when severed from their verbal embellishments. The complete case of the Affirmative consists of two arguments: First, that the world is interrelated, and therefore America must not sever itself from European affairs, and blindly follow a policy of isolation. And second, that the Bok Peace Plan should be approved because it permits the United States to break away from that policy of isolation. Interestingly enough, we of the Negative are most heartily in

accord with the hopes and aspirations of the Affirmative. We are fully appreciative of the dangers of naively following a senseless and age-worn policy of isolation. The weal of Europe and the weal of America are interdependent. The sooner the United States becomes fully aware of this self-evident truth, the sooner will there come about that spirit of understanding and cooperation of which our opponents have so eloquently spoken. But our objection to the Bok Peace Plan, Ladies and Gentlemen, is not that it permits us to sever ourselves from that policy of isolation, but rather because it is but a written formulation of that very policy of isolation. There is not a proposal in the plan that the United States is not following at the present time—its very spirit is strict adherence to the *status quo*. The gentlemen of the Affirmative have spoken eloquently of the World Court as a step toward world peace. To check their enthusiasm, we would only repeat that the World Court has jurisdiction over relatively unimportant technical and legal questions, and that the great powers themselves who have created the Court have repeatedly refused to submit to it purely legal questions over which the court is supposed to have jurisdiction. The creators of this tribunal themselves either do not have, or do not care to have any confidence in it. But even were we to grant that the Court is of some value as an agency for peace, as the gentlemen of the Affirmative contend, it is nevertheless true that we should not endorse the plan, because the United States is doing at the present time all that she could hope to accomplish were she a full-fledged member of the Court. And then the gentlemen of the Affirmative have spoken eloquently of the possibilities of American cooperation with that great instrument of peace—the League of Nations. Even were we to grant that the League is that great instrument of peace, may we reemphasize that the plan by its own terms limits American cooperation to exactly that amount of cooperation that is being carried on at the present time. *Without any change in its present policy,* the United States could extend its cooperation with the humane and reconstructive agencies of the League. And it is precisely for this reason that we ask you not to approve the Bok Peace Plan. If you adopt the plan, you are simply lending your voice to the support of the present unsatisfactory foreign policy of the United States. We are all seeking a genuine American contribution toward world peace. Once the Ameri-

can government gives its official sanction to the Bok Peace Plan, it will cling to it, and close its eyes to more comprehensive and far reaching plans for peace. You are asked to approve one plan out of twenty-two thousand, chosen by an able but admittedly biased committee: a hasty choice now may be far worse than no choice at all. To those of you who sincerely wish to see America contribute her full and fair share toward the attainment of world peace, we plead for intelligent delay.

SECOND NEGATIVE REBUTTAL

J. Philip Wernette, California

Mr. Chairman, Ladies and Gentlemen: In reviewing the debate and closing the Negative case, may I be pardoned if I stress in a different fashion from their own, the contentions of the Affirmative case, and attempt to shed other light upon it.

First, I reiterate, that despite some dispute, the burden of proof still rests with the Affirmative. Such is always the case, even when circumstances force their opponents to defend a well recognized (and indeed the only) counter plan. But when the Affirmative defends one choice of many, it devolves rigorously upon them to show that that choice is preeminently the best. And we maintain that in this case, they have not done this, nor indeed, is it possible for any Affirmative to so defend the Bok Plan.

And similarly, it is not necessary for the Negative to outline in detail a counter plan, or even to suggest one. This we have done, however, in indicating the causes which upset the peaceful equilibrium of the world, and after what general manner they may be met. Thus we have at once indicted the method of the Bok Plan, which in reality completes the Negative duty, and in addition have suggested a feasible substitute.

In meeting the Negative's objections, we feel that the Affirmative case has undergone an invalidating transition, as follows: At the opening of the debate, the Affirmative accepted the duty of proving that the Bok Plan is the *best practicable* plan, admitting that proof of their case hinges upon proof of both these points. With the latter of them I think that I have already dealt sufficiently, in pointing out that the Bok Plan is only one of many which are *practicable* (acceptable to the

majority of the American people), and that this requirement is absolutely requisite to any plan which is to be discussed, and, not being difficult of attainment, becomes incidental to the discussion, while interest centers in the feasibility, the efficacy, the adequacy of the various plans under discussion, as peace preserving and war preventing agencies.

Thus the debate centers properly on the questions: Is the Bok Plan *best* (most feasible, efficacious and adequate) plan? And it is upon proof of this point that the Affirmative case must hinge.

In attempting to establish this very necessary point, and meet the Negative's objections, the Affirmative gradually swung around to the admission that the Bok Plan is not complete, conclusive or entirely finished, but that it is a "step in the right direction," and that upon this beginning, further United States cooperation can follow, which will insure world peace. Support of these statements was very vague, whereas it should have been accurate, for by that time, the Affirmative case rested thus: The Bok Plan is *a* peace plan (no longer the *best* peace plan), which *can* and *will* be followed by action which will make it effective.

There is indeed a world of assumption in that stand—an amount of assumption which would require considerable and substantial proof, so broad are its claims. And it is our contention that these claims are unfounded, as we have pointed out already. Let me briefly review the manner in which we dealt with them.

My colleague, taking the words of the plan itself, showed that, reduced to the closest analysis, the Bok Plan is a mere paper statement of present inadequate efforts, in that "joining" the World Court merely means, in addition to what the United States is doing now, becoming one of the fifty-five nations which would then elect the judges and pay the expenses, a proposal fair enough, but one which would not improve the present ineffectiveness of the court as a peace preserving agency. Secondly, he showed that "cooperation" with the League of Nations in reality only means continuing certain participation in administrative bureaus of the League, which is now going on unofficially—a proposal which we would again admit to be interesting, but which would not make the League of Nations or the United States greater factors in the attainment of world peace.

It would seem an admission on their part of the truth of the contentions in my earlier speech that our opponents have dealt with them so briefly and inadequately. I do not feel it sufficient answer for them to reply to the fundamental defects which I pointed out, that the League has "economic commissions," the inadequacy of which advisory commissions I have already discussed.

And these economic considerations have a still further importance. As I have just mentioned, the Affirmative case now rests upon the unproved hypothesis that further adequate action will follow the Bok Plan, and if my unanswered exposition of the fundamental defects in the administration of economic problems by international diplomats be true, as we believe it to be, the Bok Plan puts us upon a fundamentally wrong track, from which no effective action can proceed.

In concluding the case of the Negative, let me repeat the two main contentions which we have advanced: First: the Bok Plan is a mere paper statement of existing efforts toward world peace, which efforts are manifestly unsatisfactory, and second: it fundamentally allows no provision for handling the economic causes of war, which handling requires economic means.

For these reasons, we urge again that this house go on record as opposing the Bok Peace Plan.

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CHAPTER VII

CONSERVATIVE AND LIBERAL PARTIES FOR THE UNITED STATES

WILLIAMS COLLEGE

RESOLVED: *That in the interest of the country a Conservative and a Liberal Party should supersede the present Republican and Democratic Parties.*

These are the Affirmative and Negative speeches of the Williams College debating teams in the Eastern Intercollegiate Debating League debates on the above question. The other colleges in the league are Amherst, Brown, Columbia, Cornell, Dartmouth, Pennsylvania, Wesleyan and Yale. The Affirmative team from Williams met the representatives of Columbia University at Williamstown, Mass., March 1, 1924, and the Negative team debated with the representatives of Boston University, at Boston, on March 7, and with the representatives of Yale University at New Haven, on March 8th. In each case, the decision of the judges was unanimously in favor of the Williams College team.

This debate was held under the Oxford system, with two speakers on a team. There were no set rebuttals, but the first Affirmative speaker divided his time, speaking ten minutes at the beginning, and five at the close of the debate, making five speeches in all of which only four are reproduced here. Each of the other speakers was allowed fifteen minutes.

Williams College won the championship of the league for 1923-1924, having been successful in seven out of the eight debates of the season. These speeches were secured thru the courtesy of Mr. George R. Craig, President of the Eastern Intercollegiate Debating League, Williamstown, Mass.

BRIEF

CONSERVATIVE AND LIBERAL PARTIES FOR THE UNITED STATES

AFFIRMATIVE

INTRODUCTION.

A. This subject has been of growing importance for many years.
   1. At present it has become one of the leading issues in the minds of thinking men and women.
   2. The need for a realignment of voters was recognized as far back as 1880.

B. To the terms Conservative and Liberal should not be attached the prejudices and favoritisms which they have gained in foreign countries with parties bearing these titles.
   1. By Conservative is meant
      a. A conservatism that would stand for an adherence to the tried and constitutional order of affairs, to the precedent, practice and policy of our original government.
   2. By Liberal is meant
      a. A party that would tend to stand for a sane experimentation with such improvements and amendments as the liberal-minded deem vital to our future progress.

I. There are at present no real live differences between the Republican and Democratic parties.
   A. There is no hope of instilling new life into them.
      1. The tendency is for 63 per cent of the voters, on the average, to vote along straight party lines, merely for hereditary reasons.

B. The only genuine difference between them is what Lord Bryce called "the desire of one party to stay in power, and of the other to get in."

C. The once-outstanding issues of protectionism and the gold-standard of the Republicans, and tariff for revenue only and free silver for the Democrats, are now merely matters of history.

1. The tariff is no longer an issue.

a. It is an academic process made so necessarily by our economic growth.

D. In the 1920 election the League of Nations was the only issue on which the parties disagreed.

1. Half the people who wanted the United States to join the League voted the Republican ticket, and the other half voted the Democratic ticket.

E. Men so diverse in their convictions as Lodge and La Follette are found in the same party.

F. The parties themselves are unable to define the differences between them.

II. The present Republican and Democratic parties are not playing straight with the people.

A. They have become mere machines used by politicians to get into office.

III. Both parties are afraid to present any real constructive platforms.

A. Both sides trim their sails to whatever breezes of popular demand may be blowing.

B. Men in office who have constructive ideas are afraid to present them for fear of imperiling the success of the party to which they belong.

C. With Conservative and Liberal parties, real platforms would be presented.

1. There would be a real division of opinion—not an artificial one.

2. This division would force action.

3. The result would be a fight for principles rather than for party names.

4. The result would be a line-up of Liberals against Conservatives, and not, as today, the betrayal of both Liberals and Conservatives of both parties, because of their artificial divisions, into the hands of the radicals.

IV. The natural division politically in this country is along liberal and conservative lines.

A. The Conservatives, and Liberals, in both parties would be brought together and could stand for their common principles.

1. It would be possible to know for what each party stood.
2. Men would not find themselves tied politically to other men who stand for principles to which they were opposed.
3. Voters would be able to choose sides without being misled by party symbols and meaningless traditions.

V. A realignment of our political parties into Liberal and Conservative sides would benefit the United States.

A. All the voters would be awakened to a realization of what is going on.

1. Realignment would create real live issues.
   a. There would be a violent clash over principles in which the voters would eagerly take part.
   b. Government would no longer be run by a few.

B. If the people have a more active hand in passing the laws, they will have more respect for law and order.

C. Control of party and government affairs will no longer be so largely in the hands of politicians.

1. The creation of vital principles will bring to the party standard leaders ready to fight for those principles—rather than for mere self-aggrandizement—leaders who have the welfare of the people at heart.

D. Legislation will be speeded up.

1. The important measures will be brought to the front.

E. It would tend to break up geographical divisions in voting.

1. It would destroy the traditions which keep people voting along the same lines year after year and set up new principles to vote for.
2. Most of the south still continues to vote the Democratic ticket in spite of the fact that the issues which once prevailed upon it to do so are no longer alive.

NEGATIVE

I. We have as near an approach to Liberal and Conservative parties in the present Republican and Democratic parties as we ever can have.
   A. The main functions of a party are to formulate policies, select candidates and win victories at the polls; and, as a corollary to these functions, its duty is to criticize the other party and question constantly its policy and actions.
   B. Beneath the development of the Republican and Democratic parties there are two underlying currents—which are still there.
      1. The Republicans favor strong centralized or unitary government, the Democrats favor a federalized government.
      2. The Democrats stand for freedom of the individual, the Republicans for the checking and regulating of the impulses of the individual for the good of all.
      3. The Democrats typify the Liberal attitude, the Republicans the Conservative.
         a. This tendency still exists and was clearly shown in the stand taken by both parties on the League of Nations in 1920.
   C. It would be difficult to make the difference any more pronounced.
      1. The average man is conservative on some questions and liberal on others.

II. It is impossible in this country to make party questions of large issues.
   A. There are in the Constitution inherent limitations which make it impossible.

1. All really fundamental and important legislation requires an amendment to the Constitution.
   a. An amendment requires two-thirds vote of both houses, and ratification by three-fourths of the states.
2. No party has ever had or could hope to have, so large a majority.
   a. If it did, the result would be the extinction of the other party.

III. Constitutional barriers require parties whose organizations are more highly perfected than would ever be possible with Liberal and Conservative parties.

A. Our system of checks and balances makes strong parties absolutely necessary.
   1. The separation of the administrative from the legislative branch makes necessary some powerful coordinating force.
      a. This has taken the form of parties.
      b. The parties have become the means by which the government acts.

B. To replace the present parties with Conservative and Liberal parties would be dangerous.
   1. It would discard organizations that have been perfected by every power that is known.
   2. It would destroy foundations that had been most carefully laid.
   3. It would weaken the whole system of government.
      a. Conservative and Liberal parties do not allow of this high degree of organization that has been attained under the present system.
      b. No clear-cut division could be made between them.
         1. This would break down the coordinating force of our government.

IV. The people of the United States cannot be divided into Liberals and Conservatives.

A. The Liberal-Conservative party plan is only practicable where there is one set of issues along which opinion can divide.

1. This is the case in England which is an industrial country.
2. It is not the case in the United States.
   a. The United States is an agricultural-industrial country, with two separate and distinct sets of issues.
   b. A man may be conservative with respect to one set of issues, and liberal with respect to another.
   c. This difficulty will be still greater in the case of international issues.

B. A presidential election would often call for a man who is neither conservative nor liberal but half-way between.
   1. It would call for a coalition of votes.
   2. In England a vote is taken only on issues, here we vote every four years whether any issue exists or not.

V. Even if the people of the United States could be divided into Liberal and Conservative parties it would not be desirable.

A. At present the two major political parties represent a great nationalizing influence.
   1. The Republican Party represents the wealthier classes in the north, and the poorer in the south; in the Democratic Party the poorer classes of the north and the wealthier of the south are allied.

B. In the change to Conservative and Liberal parties, the richer element of our population would be lined up against the poorer.
   1. This proposed formation would result in class distinction.
      a. The capital-labor situation is difficult enough now without any further complication or invitation for disagreement.

CONSERVATIVE AND LIBERAL PARTIES FOR THE UNITED STATES

WILLIAMS COLLEGE

Affirmative Speeches in Debate Against Columbia University

FIRST AFFIRMATIVE

Alfred E. Driscoll, Williams

Mr. Chairman, Ladies and Gentlemen: It is with great pleasure that we welcome the members of the Columbia Debating Team to our Halls this evening. Indeed it is peculiarly fitting that in the discussion of such a subject as we have before us this evening the representatives of Columbia should take part, since from the head of their great university has come much of the power and inspiration which has heightened the desire of many to lay the two old parties of this country aside and to establish a new political order. Members of the Columbia Debating Team, we welcome you.

The subject which we have for debate this evening is: Resolved: That in the interests of the country a Conservative and Liberal Party should supersede the present Republican and Democratic parties.

For a long time this subject has been growing of increasing importance until at present it has become one of the leading issues of the day in the minds of thinking men and women. The subject is not a new one, for as far back as 1880, we read the statement that the two big parties were becoming decadent and that there was a need for a realignment of the voters.

The Affirmative this evening has no intention of transcending the scope of human possibility or of presenting a plan drawn either from the skies or from clear air. Quite the contrary, the plan which we are presenting this evening will be entirely

practical and entirely possible. The Affirmative admits that it is proposing a change, a change which in the minds of many will be termed radical, and for that reason alone they will set their minds against our plan. Others will object for the simple reason that the plan has never been tried before and therefore we cannot show actual proof that our plan will work. These are but hasty conclusions arrived at by narrow minded thinkers. But, there will be some of you who have come here with open minds and it is you that we ask to give us your unprejudiced judgment.

The terms Conservative and Liberal are not entirely new to American ears. In the last few years the citizens of this country have had a chance to become familiar with them thru our foreign relations with countries that have parties bearing these titles. But allow me to caution you here against attaching to these terms as we shall use them tonight any of the prejudices or favoritisms which they may have gathered to themselves in foreign countries. The Affirmative has no desire to transport any system from any foreign country, no matter what advantages it may seem to have. We agree with the statement "that government like a suit of clothes must be made to fit."

By Conservative then we would seem to indicate a conservatism that would stand for an adherence to the tried and constitutional order of affairs, to precedent and practice and policy of our original form of government; or to a Liberal Party that would tend to stand for a sane experimentation with such improvements and amendments as the liberal-minded deem vital to our future progress. These seem to us to be sensible definitions upon which to base our arguments.

The charge which the Affirmative presents against the two old parties of this country is a serious one. We believe in the first place that there are at present no real live differences between the two parties. As regards live issues they are dead. Second, that they are at present the mere machines used by politicians to get into office, and as such they manufacture trumped-up issues, which waste the people's time and retard the political development of the country. Third, we believe the present parties are afraid to present a real constructive platform to the people for their approval or disapproval. And in this they are retarding the industrial as well as the political development of the country. We agree with Dr. Butler when he says that "Free institutions can be effectively maintained over any

considerable period of time only by the two party system. The two parties must, however, be really two parties and not merely shades or aspects of one." Finally we charge that the continuance of these two old parties is giving strength out of all proportion to the destructive radicals in the affairs of the nation. These serious problems we firmly believe our plan would tend to solve, if not at once, at least in time.

It has been agreed by most students of the subject that there can be no hope of instilling new life into the present Republican and Democratic parties; no hope of rejuvenating them, for as long as we have the titles Republican and Democrat there will always be those poor souls who will vote the party ticket, even if Shaw was its principal nominee. Indeed so great is this tendency that Professor Merriam, Professor of Political Science at the University of Chicago, says that on the average 63 per cent of the voters tend to vote along straight party lines merely for hereditary reasons. This number will continue to vote this way as long as we have the names Republican and Democrat to attack them. Let us get this out of our heads then, that we can simply reform the present parties. We can't reform them. Therefore the thing to do is bury them decently and with appropriate ceremonies, and then write epitaphs telling of their useful past.

The condition into which our present political parties have slipped is so well recognized that hardly a word seems necessary to point this condition out. There are no genuine issues between them, no authentic differences of policy or performance. There is nothing between them save what Lord Bryce called "The desire of the Republicans who are in power to stay in power and the desire of the Democrats who are out of power to get back in power." In his "American Commonwealth" he says "Neither the Republican nor the Democratic Party has anything definite to say on any of the twelve issues which are being discussed in the country as seriously involved in its welfare. Neither party has any principles and distinctive tenets. Both have *only* traditions and watcries. Points of political doctrine have all vanished." If that were true in 1891, how much more true is it today.

At one time we grant you, it meant something to be either a Republican or a Democrat. Today neither term is either definite or even descriptive. They are no more than the labels on empty bottles. At one time to be a Republican meant that

you were a protectionist and stood for a single gold standard. To be a Democrat you had to hold to the policy of tariff for revenue only or for free silver. Take these two outstanding issues and try to apply them now as reasons for Democracy or Republicanism. They are purely historical. The tariff is no longer an issue; it is a process and an academic one at that made necessarily so by our economic growth.

Professor Merriam in his book on the "American Party System" points out that the election of 1900 was the last in which we have had a clear-cut issue upon which the parties have taken sides. Since then both parties in the five elections following have attempted to confuse the voters by presenting no vital issues except possibly that of party tradition. In the election of 1920, for example, Professor Merriam states that the parties agreed in their planks with the possible exception of the League of Nations, which was so muddled that half the people who wanted the United States to become a party to it voted the Republican ticket while the other half voted for the Democrats. This, Ladies and Gentlemen, is the confusion into which an outworn political system is leading us.

Can we imagine two men more diverse in their political policies than La Follette and Lodge? Yet we find them today in the same uniform getting into office under the same party name. No wonder the voter is confused and does not know for what he is voting. We need a realignment of our parties, a realignment by which La Follette would fall as naturally into the Liberal Party as Lodge would assume the place he so desires as leading Conservative. That, Ladies and Gentlemen, is what the Affirmative urges this evening, realignment of our parties.

The weight of evidence shows that things have reached such a state that even the parties themselves are unable to define their differences, for, when the Republican Party made an effort to define the difference between Republicans and Democrats the best it could do was as follows, "In experience the difference between Democracy and Republicanism is that one means adversity, while the other means prosperity; one means low wages, the other high; one means doubt and debt, the other confidence and thrift." I suppose the question the people have been trying to decide ever since then is which means which!

In addition to the fact that there are no differences between

the parties, as seen by the quotations from Bryce, Professor Merriam, and by their platforms; in addition to the fact that the present parties only tend to confuse the public mind, as seen in the League question; in addition to the fact that these parties stand for nothing and mean nothing, as seen by their own pitiful attempt at definition; we find that the present parties are not playing straight with the people. They have no differences and they know it. Yet the few men in power continue their life in order to satisfy their own desire for office; continue to manufacture issues that are not vital, and which not only demoralize the government, but which tend to lessen the faith of the people in their government. Today progress stands still while party leaders hallo back and forth in the Senate chambers. "It was you!" "You're another, it was you!" As the Springfield Republican said, "It is four months since Congress met and still nothing has been done except squirt oil."

The truth is that the present parties are afraid to present any real constructive platforms such as the Republican Party presented in 1860. Both sides trim sails constantly to whatever popular breeze may be blowing and both sides respond instantly to whatever organized demands may be made. I would hesitate to say that there are not men in office today that have not constructive ideas, but that they are afraid to present them for fear of harming the success of their party.

With a Conservative Party and a Liberal Party you could not help having real platforms presented, because you would have at once, a real division of thought, not an artificial one—a division which would demand action. The very ideas of the two parties would be opposite, the result would be a fight for certain principles rather than an outworn name. There would be no outworn bonds to hold any conservative from supporting a conservative issue. The lineup would simply be all conservatives against all the liberals, with the majority ruling, not as it is today with the conservative Republicans fighting tooth and nail the conservative Democrats, upon issues with which they are in accord, and the radicals holding power.

Dr. Butler has stated, "the overwhelming majority of Americans believe in their form of government, yet this overwhelming majority, by maintaining a purely artificial division among themselves, play directly and daily into the hands of the enemies of

America, as we know. The struggle for place is so keen that a relatively small majority can by threatening party success or party pride gain marked concessions." The radical is entitled to his opinions and what power he can gain by an honest appeal to the people, but he is not entitled to all this under false pretentions.

The great natural political division in a country like ours is a division along conservative and liberal lines. In each of the present worn-out parties now representing the organized political thought of this country there are found these two fundamental parties. This point is made more clear by Professor Merriam's diagram of the present situation.

Rep.	Dem.
LIB	ERAL
CONSER	VATIVE

We ask this evening, Ladies and Gentlemen, for a realignment of the parties. We ask you to erase these false barriers. We would then have parties that stood for something with names that indicated something. We would have instead of such men as Lodge, Borah, and La Follette in the same party, rather a natural division, a division by which the conservative Democrats would be united with the conservative Republicans in the support of those issues which they both, even now, believe to be true.

One would know in an instant for what such parties stood. And why after all should this country have a political system which forces men like Underwood, a conservative Democrat to vote against issues conservative in nature, which, I say, forces him to vote against them, altho he desires them and believes them to be good, just because they were presented by the Republican Party. That was exactly the case in the Cummings controversy.

With a Conservative-Liberal division we would have an honest and sincere division of our political forces in this country and the voters, young and old, would be able to choose

without being misled by false symbols and meaningless traditions whether they wanted to throw their votes with the one or the other party.

SECOND AFFIRMATIVE

Sanford B. Church, Williams

My colleague has shown that the present Democratic and Republican parties here in the United States do not live up to their original purposes, that they are deteriorating every day, and that they ought to be replaced by some new parties, or at least by a realignment of the old. Entirely new parties cannot be satisfactorily put in place of the old ones, certainly not right away; and my colleague has stated that a realignment along liberal and conservative lines would be the most reasonable of any available plans.

Taking these facts into consideration, then, it shall be my duty to show wherein such a realignment as this would benefit the United States; and I shall briefly sketch the ways in which it would be possible.

First, a Liberal-Conservative realignment would create real, live, vital issues, which, as my colleague has shown, our present parties do not do. So, by contention on important points, all the voters will be aroused to a sense of their political position. Second, since interest would be created throughout the entire country, we would have men stand forth to express the sentiments of the various public groups—real statesmen, men inspired by the right of the principles for which they stand. Third, the solid south would be broken up, and people would be divided as they really thought; and not as they were geographically divided. The advantages of our plan being thus outlined, let us consider these points in detail; and see how they will actually work out.

Edmund Burke defined a political party as "a body of men united for promoting by their joint endeavors the national interest upon some principle upon which they are all agreed." Obviously, national interest cannot be promoted without a principle in which the voting public is interested; and the voting public cannot be made to take an interest in any, old subject which our present parties may drag up for their platforms.

All men are divided either liberally or conservatively—as they favor progress or restraint. Here in the United States, we are inclined to favor "radicalism and liberalism," in the sense in which Adam Smith meant the terms, as "progressive conservatives, and out-and-out conservatives." We have comparatively few radicals or reactionaries, in their ordinarily accepted sense. It is impossible for a man to think like a party composed of many others with differing ideas, on principles which are a conglomeration of the liberal and conservative elements. If we have two parties, one of which is made up of these voters who advocate progress, and the other of those who advocate restraint, we will be able to put into office that party which stands for what the majority of the people want.

Now, with two parties divided in this way, there is bound to be a violent clash along liberal and conservative lines, as those who advocate one side will fight eagerly for their principles with those who stand for the other. This fight will not apply to just that little group of politicians who run our politics as is the case today; but it will apply to the entire group of our American voters, stirred up by a fight over the principles in which they themselves are vitally interested.

As soon as the United States of America was born; and our forefathers faced the question of a Constitution, political parties came into existence. And they came into existence not by parties which had a mixture of liberal and conservative elements, as today; but by parties which were actually liberal and conservative. The Federalists were the conservatives—they wanted to give the central government absolute control. The Anti-Federalists were the liberals—they wanted to change things around right away, and give almost all the power of governing to the states. This was just the start of our parties.

From this time on for many years our parties continued in much the same way. However, little by little, the personal factor entered in; and the public good ceased more and more to be considered. As has been said, our present parties are the tools of the few. These few make laws in which the public as a whole has no hand. One may wonder, for instance, why the "Prohibition Amendment" is not better respected by the entire nation. There are many who feel that the entire nation was not thoroughly awake to what was going on; and

did not at all appreciate what it was doing when the amendment was passed.

If we have all the people thoroughly awake to what is going on in their political world—and, consequently, if they have a more actively willing hand in the passing of laws—everyone will have much more respect for law and order. Such a condition is obtainable through a Liberal-Conservative realignment, as all people want laws favoring either progress or restraint, as has been pointed out heretofore; and would by such a realignment, be able to express their opinions more satisfactorily, and with more chance of their acceptance.

There are always some men who are bound to stand out as the spokesmen for a group or for a political party. They put the ideals and principles of their associates into words; and they are the actual fighters in the political battle. By the creation of real, live, vital issues, we will create more men—more statesmen—who have the good of the people at heart, and who are really interested in the principles for which they are fighting—not from a viewpoint of self-aggrandizement; but from one of benefiting all those who think in either terms of progress or of restraint—of Liberalism or Conservatism.

As my colleague has already shown, while we certainly have some statesmen today like Root, Hughes, and Wilson, the tendency seems to be to have many more politicians in our law-making bodies, than any statesmen truly concerned with the public good. If, then, it is natural for men to be either liberal or conservative; and if, once divided along these lines, vital issues will be created; and if some men will stand out as the champions of these issues once they are definitely put forth, we will have a group of men who will not only put forward the thoughts of their fellow-partisans but who will make everyone throughout the whole country think of his political rights and privileges in a way which he has not done for a long time.

As Frank Munsey says, the American voters have lost interest in political issues today, for the simple reason that those issues have been so perverted, and made of little value by our petty politicians. A realignment along liberal and conservative lines will once again put the voters face to face with the real issues of the day, through men who are really filled with a sense of the right of their principles.

We are constantly reading in our newspapers about the uncalled for delay in our legislation. Petty issues are forever being brought up, which overshadow the larger ones, and often shut them out altogether for a long period of time. Such a condition, we realize, is due to the outrageous lack of public interest in our legislation, of which we have just been speaking.

Now, if a Liberal-Conservative realignment of our parties is going to reawaken this dormant public interest, it naturally follows that our legislation will be speeded up. Nor is this the only advantageous phase of the question. We have just shown that more vitally interested statesmen would be created by such a realignment. If this is the case, it is obvious that these statesmen would never stand for delay in their legislative measures; and, likewise, one side would be as anxious to fight for or against a bill as the other, since both would have an interest in it. It would not be a case where a few people would put through a measure in which they and they alone were interested.

We do not say that all the measures before us, under these circumstances, would be big; but we do say that all the big measures would be before us. There are bound to be a great many unimportant issues fought over in any law-making body; but, in such a body where the interest is keen, the unimportant ones will tend to be lessened, and the important ones to come to the fore. Nor do we say that such a condition as we have just pictured will last forever. Any arrangement of political groups is bound to deteriorate eventually. When our present parties first entered the field they suited everybody—there was no criticism of the party system, although there was plenty of the individual parties.

We are merely offering this plan as one which will do away with the present evils. When such a time comes that it is necessary to revise the new parties, that will be time to worry over it. Just now there are enough political reforms to be made, without borrowing trouble of the future.

As to our last argument, the creation of a fight in the present "Solid South," there is not as much to be said as on the other points. However, it is an acknowledged fact that the south votes solidly Democratic. This condition arose 'way back at the time when the country and our political parties were new. It grew out of the tariff question and has stayed

with us ever since. The south, at that time had practically no industries, and consequently wanted a tariff for revenue only. The north, on the other hand, had many budding industries, and wanted to protect them. It was perfectly natural that a fight would arise between these two sections; but there is no legitimate excuse for its remaining this long, even with the slavery question, and the Civil War to help it along.

The Civil War is a thing of the past; and, while the tariff is not a thing of the past, it has been considerably changed in past years. Industries have been growing up in the south, and that section of the country can no longer really stand for a tariff for revenue only, as it has done for a long time.

In fact, most southerners even at present vote a straight Democratic ticket, regardless of any thing for which that party stands. There are many people like this throughout the whole nation—people who have "gone to sleep" over their political traditions, and who need waking up. It is our greatest duty as citizens of the United States to take every advantage of our rights of citizenship, and not to have any interest whatever in political happenings of the day.

Our present parties have passed beyond the point of ever being able to wake the voters up; and it is only by means of a new alignment, accompanied by live principles, that we can ever have renewed interest. By breaking down the traditionary old parties, and by creating new ones with new principles in their places, we will force the voters of the United States to think exactly what they do believe, and to vote accordingly. It is time that the American public came to a full realization of the importance of this business of governing itself; and adopted the best way of doing it. With the old political bosses gone, and with a Liberal and a Conservative Party—each standing for just what the name implies, we will have a rebirth of our original American principles.

In conclusion, then, let us consider once more what a Liberal-Conservative realignment will do: first, it will create real, vital political issues by dividing the voters into two groups into which they naturally fall—those favoring progress and those favoring restraint. In this way we will have the voters aroused, which will cause a great interest in politics, and also a respect for law and order. Second, with these new, live issues, we will have more statesmen, who will be the champions of

the two parties. Thus there will be a tendency for better, quicker legislation. And third, and last, we will have a real political fight in the "Solid South," and will make those who have voted according to family tradition for many years, actually sit up and think what they really do believe in, politically.

Negative Speeches in Debate Against Yale University

FIRST NEGATIVE

Hoxey Charles Clark, Williams

We of the Negative do not defend the present parties but we do say that the situation would not be improved by Liberal and Conservative parties. It is up to the Affirmative to present a constructive case. We want to hear something besides the assertions that our parties are crooked, that there have not been any party issues since 1896, and that there is no difference between the parties at present. What we say is that it is not the system which is wrong but that it is the American citizen who refuses to take an interest in his party who is wrong. Arouse public opinion and make the people take an interest in their government. Merely changing the name of our parties will not arouse them to an active part in running their government.

The Negative feels that it is the duty of the Affirmative to show: first, that a change is necessary, and second, that the change which they recommend would be better than the present system.

Let us consider the present party system. 1. What is the function of a party? Are our parties dead? 2. Why are not large issues made party questions? 3. Why are our parties so much more highly organized than in the countries which have Conservative and Liberal parties? These are some of the questions which I shall attempt to answer.

The functions of a party are to formulate policies, select candidates and win victories at the polls. As a corollary to these functions, it is the duty of one party to criticize the other and to constantly question its policy and actions. The majority of work done by the parties is not even seen by the average citizens. We only see them in action when there is something

spectacular or notorious like the Tea-Pot Dome scandal. The parties are the means of coalescing individual interests for the interests of the group. The parties are the human factor in the government and are what give it force.

Beneath the development of the Republican and Democratic parties, Lord Bryce tells us that there have been *two underlying currents*—they have risen and fallen in importance but they have been there all the time and still are there. One centered around the *formation of the central government.* The *Republicans,* on the one hand, have been for a *strong centralized or unitary government* and the *Democrats,* on the other hand, for *a federalized government.* On measures as they come up those which weakened the state governments were opposed by the Democrats and those which strengthened the centralized government were urged by the Republicans i.e. one appealed to the community as represented by the state while the other appealed to the majesty of the national government. The second underlying current concerns men's view of liberty. The Democrats appealed to that tendency in men which makes them prize the freedom of the individual as the first of social goods, and the Republicans that tendency which disposes others on checking and regulating his impulses. The significant thing about these differences is that although they have been warped out of shape and many other issues cloud them they are still there. The first has been more or less definitely settled but the second is still felt.

What do I mean by the difference in the way men look at liberty? It is the difference in a state of mind. I mean that we have a Liberal and Conservative Party as much now as we ever can have—I say as much as we ever can have. The Democrats at the present time with their view of liberty as the freedom of the individual take the liberal attitude and the Republicans the conservative attitude. The Democrats tend to promote the progressive measures, sometimes even a little radical, while the Republicans tend to be reactionary, deliberate, and conservative. How have the parties lined up in the last two elections? In 1916, for example, the Democrats favored a Child Labor law, prison reform, and the giving of adequate pensions to old government employees while the Republicans were against any measures which would disturb business in any way as would most certainly a Child Labor law. At the same

time the Democrats felt it their duty to give self-government to the Philippines as soon as possible—that is to give freedom to the individual while the Republicans felt that no such liberal change should be made and justified themselves by the statement that it was our duty to humanity to govern the Philippines.

What was the big issue in 1920? The ratification of the League of Nations. The parties lined up as would be expected. The Democrats, representing the more liberal element, tended as a whole to be for the League while the Republicans, more conservative by nature, tended as a whole to oppose our entrance into such an entangling engagement. Certainly the League of Nations is as good an example of an issue upon which the parties could line up as conservative and liberal as one might find anywhere. It was a step in a new direction—the traditional policy of the United States had been to keep out of European entanglements and yet more liberal minded men felt that the world had become so small that it was impossible for this country longer to hold itself aloof from Europe. They felt that it was our duty to try and preserve world peace by accepting certain obligations. On the other hand, the Republicans, dictated to somewhat by their conservatism, felt that we would be involved in troubles and perhaps even in war by such a step which could be entirely avoided by continuing to mind our own business and staying in this hemisphere. The arguments for and against the League of Nations are beside the point in this discussion. What I have shown is that it was an issue which allowed men to line up as liberals or as conservatives—the Democrats tended to be liberals and the Republicans tended to be conservatives.

You will recall that I said we have Liberal and Conservative parties now as much as we can ever have—why? Because how are you going to make the difference any more pronounced? What about the farmer in Iowa who is a conservative as far as our going into the League of Nations is concerned but who, when you suggest the idea of government ownership of railroads, is over-joyed with the proposition? How are you going to distinguish between liberalism on domestic affairs and conservatism on foreign affairs? A man will have to subordinate certain of his conservative ideas to be a liberalist on some specific issue or vice versa. That is exactly what we

have now. Men have to vote either with the Republican Party because they approve of a certain issue which the party is forwarding or because they have faith in the leaders of the party. It is the same way with a man who votes in the Democratic Party. I mention this point. My colleague will discuss this consideration much more at length.

At this time I would like to ask my honorable opponents to define the difference between a Liberal and Conservative Party. And at the same time will they please outline or at least briefly suggest platforms upon which the parties would stand. My only request is that they will say something more than that the Conservatives would stand for things as they are and against change while the Liberals would be for progress and advance.

Let us consider my second question which was: why is it impossible in this country to make large issues party questions? Why have not such questions as the direct election of senators, extension of suffrage, the merit system, the budget system, and the administrative efficiency not been settled by party controversy? Why also have not the parties made issues of slavery, prohibition, dry traffic, and lotteries? Because there are inherent limitations in the Constitution which render it impossible to make large issues party questions. As you see by this chart over here there are four types of issues—urban, non-party, constitutional, and finally partisan. The first division is self-explanatory. The second includes such measures as civil service reform, railroad and trust legislation, and finally social and industrial legislation. The constitutional issues include the income tax, direct election of senators, prohibition, etc. as given before. Finally there is left to the parties the tariff, currency, and imperialism. It is needless to say that the chart is not drawn to scale. There are many more issues in the urban, non-party and partisan class than under the constitutional class but all really fundamental and important legislation requires an amendment to the Constitution. What are these limitations to making large issues party questions which are inherent in the Constitution? An amendment to that document requires a two-thirds vote of both houses and then the ratification of three-fourths of the states. No party has ever hoped to have such a majority as this and never will have because if they did it would mean the extinction of the other

party. Therefore, in spite of all that my opponents may say about the making of large issues party controversies by having purely Liberal and Conservative parties, we see that this is impossible under our present Constitution and I am not one who would advocate any radical change in that instrument—only a more radical enforcement of it.

There is one more question which we must answer. Why are our parties here so much more powerful and highly organized than in any other country where they have liberal and conservative parties? Because the structure of our government is such that it requires highly organized extra-legal means of being run. The very fundamental principle of our government, namely, the system of checks and balances makes strong parties absolutely necessary. The separation of the administrative branch from the legislative branch of the government necessitates some powerful coordinating force which has taken the form of parties. These parties have developed with our government and are almost as necessary as the Constitution itself because they are the life of the government, they are the means by which the government acts. As Lord Bryce said, "They are to the government as the steam is to the locomotive."

What would you do by superseding the present parties by Liberal and Conservative parties? You would throw over your parties which have been built up thru years and years of experience. You would throw over your organizations which have been perfected by every human power that is known. You would throw away the foundations which have been carefully laid. You would toss in the discard traditions which have grown up thru decades—and they say that traditions are one of the most important parts of any government.

Yes, but you would even do worse than that, because you would weaken your whole system of government. Conservative and Liberal parties do not allow the high degree of organization which has been attained in our parties and which is absolutely necessary under our form of government. No clear-cut division can be made between Conservative and Liberal parties because, as said before, it is impossible for men to divide themselves absolutely into Liberalist and Conservatives. What does that mean? It means that you cannot have the highly organized parties of today. What does that

mean? It means that you would break down the coordinating force of our government. Therefore, to substitute Liberal and Conservative parties for our present system would mean to cripple the very life of our government which requires highly organized parties such as the present Democratic and Republican parties.

Summary

My first point was that we have as near an approach to Liberal and Conservative parties in the present Democratic and Republican parties as we ever can have. My second point was that there are limitations inherent in the Constitution which render it impossible to make large issues party questions. My third point was that there are constitutional barriers which necessitate parties whose organizations are more highly perfected than would ever be possible under Liberal and Conservative parties.

Finally may I ask my opponents again first, to define the difference between a Liberal and Conservative Party and second, to give us briefly platforms which such parties might put forth.

SECOND NEGATIVE

George R. Craig, Williams

Mr. Chairman, Ladies and Gentlemen: It has probably occurred to you that since the question for debate this evening is Resolved: That in the interest of the country a Conservative and a Liberal Party should supersede the present Republican and Democratic parties, that the gentlemen from Yale would find it to their advantage to argue that question. At this point, however, with both of their constructive speeches over and only the five minute rebuttal period remaining during which they may introduce no new arguments, we find that they have made a very serious attack against certain features of the present political parties, but never have they shown that these conditions would be improved by the realignment which they seek. This being the case, they have not upheld the burden of proof—a burden which it is impossible for them to avoid. My colleague and I are perfectly willing to admit that the present political system has its weaknesses; we are perfectly willing to admit that the scan-

dals now being brought to light in Washington are most disappointing to say the least; but we do not admit, nor has the Affirmative argued, that such conditions would be automatically improved by the adoption of the party system which they advocate. To successfully uphold their end of this debate the gentlemen of Yale must argue not that the present system has its weaknesses alone, but that the system which they propose will correct these weaknesses. In the final analysis the only force which can possibly bring about a satisfactory state of affairs in political matters is a quickened public conscience, which point will be developed later. Meanwhile, as second speaker for the Negative I shall endeavor to prove to you (1) that the People of the United States cannot be divided into Liberals and Conservatives, and (2) even if they could be so divided, it would not be desirable.

Now let us consider my first point, namely, that the people of the United States cannot be divided into Liberals and Conservatives. We have asked the Affirmative to define these two terms and to outline a brief platform upon which each might well be expected to stand. Their answer has been that the Conservatives would favor conditions as they are, while the Liberals would favor "a sane advance." On the matter of the platforms they are silent. They argue that there should be Liberal and Conservative parties, but they are unable to state for what each would stand. Is such a division of the voters of the United States possible? The answer is an emphatic "No."

In the first place, the United States is an agricultural-industrial country, presenting two separate and distinct sets of issues. The difference between this situation and that of England is apparent. With an industrial country, the English voter has but one set of issues to face and there is room, therefore, for two stable groups of political opinion. But not so here. Being an agricultural-industrial country, we have two sets of issues presented. For a concrete example, let us take the average farmer of the Middle West. Ask him his opinion on the public use of property and he is decidedly conservative—or, again, ask him his opinion of government ownership of the railroads and he is overjoyed—a Liberal of the Liberals. I might give other examples of a

perfectly sane and sensible man being a Liberal on one question and Conservative on another. How is he to vote? You may say that he would be in the same situation in which he now finds himself, and that he must first decide which of the two conflicting issues concerns him the most. But this is not the case. Under the present system he can use his influence to have his representative vote Conservative on the property question and Liberal as to railroads. Were the plan which our opponents advocate to be adopted, however, the farmer certainly could not expect his representative to satisfy him to this degree. Instead of being consistently farmer he would be consistently Conservative or consistently Liberal. We see, therefore, that the plan of the Affirmative is not practical for an industrial-agricultural country.

In addition to the national issues there are the international issues to be considered. What of the League of Nations, the World Court, Japanese immigration, reduction of armament, and so on. Isn't it very easy to conceive of a man who favors the League of Nations and yet believes in a strong army and navy? Theodore Roosevelt was a Liberal in regard to international conciliation and yet a Conservative on the question of armed strength. How would he vote? In addition to a complex group of national issues we have, as a further confusing element, a great set of international issues.

And then what of the presidential elections? In Great Britain they vote on issues—here we vote every four years whether there are any particular issues at hand or not. It is not logical to assume that the voters will desire a staunch conservative for the chief executive nor yet a decided liberal —their desire lies in a man who is more or less half-way-between these extremes. A presidential election, therefore, would call for a coalition of votes, and what would happen to your Conservative-Liberal division then?

In view of these facts—in view of the fact that the United States, being an agricultural-industrial country, presents two sets of issues upon which a sharp division is impossible; in view of the fact that international issues only serve to increase the difficulty; and in view of the fact that the presidential elections will result in a coalition of votes and thus destroy the Affirmative's system were it to be adopted, we of

the Negative argue that the people of the United States cannot be divided into Conservatives and Liberals.

My second point is that, even if the people of the United States could be so divided, such a division would not be desirable. Now the present political parties are recognized as being great nationalizing influences. There are many people who feel that if the Democrats had had their way at the time of the Civil War, that war would never have had to be fought. At that time the Democrats were a national party —the Republicans primarily local. But, regardless of the truth or falsity of this statement, the fact remains that, at present, the two major political parties represent a great nationalizing influence. Anyone acquainted with the facts realizes that the Democratic Party of the south finds its greatest strength among the wealthier class, while in the north the wealthier voters are numbered, for the most part, among the Republican Party supporters. The Republican Party, on the other hand, finding its main strength in the north among the wealthy, is supported by the poorer classes in the south. Of course, I mean these statements as of general facts, and not without exceptions. In general, however, this is the case. Each of the major parties, therefore, represents a fair cross section of society, which is to be desired. The plan as advocated by the gentlemen from Yale, on the other hand, would be a line-up of rich against poor—the "haves" against the "have-nots," certainly a situation not to be desired. Instead of representing great nationalizing influences as under the present system, the proposed formation would be primarily a class distinction, and we feel that the capital-labor problem is serious enough now so as not to desire any further complication or invitation for disagreement. This, then, is the Negative's case.

If the plan which the Affirmative has proposed would correct the evils of the present political system without presenting greater ones, then it would be worthwhile and sound. The fact remains, however, that a mere realignment or change of name will not bring about the desired results—it is the voter who makes or breaks the political parties—the voter or the stay-at-home—and until, by some educational campaign, we can inspire the great mass of American voters to some

sort of a quickened public conscience, politics are bound to remain the same.

The Affirmative have unmercifully attacked the present parties and party leaders—they have *not* shown that their proposal would correct this system which they deplore. The burden of proof, therefore, still rests heavily on their shoulders. Since the question is that a Conservative and a Liberal Party should supersede the present Republican and Democratic parties, let them prove *just that,* and not avoid the issue.

Ladies and Gentlemen, the whole case of the Affirmative—and I am not exaggerating when I make this statement—the whole case of the Affirmative is based upon a presumption that Liberals would unite and Conservatives would unite. The three Liberals whom they have named in the course of the evening's debate are Hiram Johnson, Borah, and La Follette. If you would care to look into the records of these three men you would find that they are in total disagreement on many of the burning questions of the day. They disagree absolutely on the collection of the allied debt—from collection in full to no collection at all; they disagree absolutely on the soldier bonus—from a general un-classified bonus to no bonus at all. And the gentlemen were not particularly unfortunate in naming these three men—the same would be true in the case of practically any other Liberals they might name, or any Conservatives. It all goes to strengthen my first point—you cannot have a Liberal-Conservative division in an agricultural-industrial country, and any amount of argument or scandal-reciting will not change this fundamental fact. Since their whole case is based upon an assumption that Conservatives would unite and Liberals would unite, and since this assumption has been shown to be entirely false, the case advanced by our opponents is utterly without a basis of fact upon which to stand, and, as such cannot logically be maintained.

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CHAPTER VIII

PERMANENT COURT OF INTERNATIONAL JUSTICE

WESTERN RESERVE UNIVERSITY

versus

UNIVERSITY OF INDIANA

RESOLVED: *That the United States should enter the World Court.*

This was a debate between an Affirmative team representing Western Reserve University and a Negative team representing the University of Indiana held at Cleveland, Ohio, March 14, 1924. This is a stenographic report which was approximately complete, but the omissions and inaccuracies were such that it could not stand without change. An attempt has been made to preserve the actual utterance of the debaters, correcting only obvious errors of the stenographer.

The Western Reserve Negative team won the same evening in debate with the University of Notre Dame at Notre Dame. These were two of fifteen intercollegiate debates on the World Court and the League of Nations, participated in by the six teams of Western Reserve University in 1923-24. All were won by Reserve except two.

The report, briefs and bibliography were secured thru the courtesy of Professor H. S. Woodward, Faculty Director of the Debate Association, Western Reserve University.

BRIEF

PERMANENT COURT OF INTERNATIONAL JUSTICE

AFFIRMATIVE

I. The Permanent Court is an improvement over anything yet devised.
   A. It is the only body which decides the cases brought before it on the principles of justice without regard to diplomatic compromise.
   B. Previous attempts of the Hague Conferences of 1899 and 1907 to set up such a court failed, because
      1. The nations could not agree upon a method of choosing the judges.
   C. The Hague Tribunal of Arbitration is defective, for
      1. It is not a permanent body.
      2. Its decisions are based upon arbitration which has for its basis
         a. The diplomatic policies of the contestants.
         b. Compromise between the two.
   D. The Permanent Court of International Justice does away with these defects, for
      1. It is a permanent body of trained judges.
      2. Its decisions are based upon
         a. The evidence.
         b. International law and international treaties.

II. The World Court offers the soundest basis for the development of international order, for
   A. The World Court is a court of justice, while the Hague is not, for
      1. See above (I, C); and

B. The nations of the world prefer a court of justice to arbitration, for
   1. They prefer an impartial determination of their rights to a compromise based upon expediency, for
      a. After more than a century's experience with arbitration, our State Department recognized this.
         (1) Instructions to our delegates to the second Hague Conference, 1907.
      b. The other nations of the world have recognized the same thing for
         (1) They have established a World Court for justice although they already had the Hague for arbitration.
         (2) They are using the World Court in preference to Hague Arbitration, for
            (a) Since the World Court was established, it has been used nine times.
            (b) Meanwhile the Hague has not been used once.
   2. They will have confidence in the impartiality of a court of justice, for
      a. There is no chance for partisan bias, for
         (1) The judges are not elected for a particular dispute.
         (2) They (i.e. nine of the eleven judges) are not elected by the parties to the dispute.
   3. They know that arbitration means compromise, for
      a. Arbitration is completely partisan, for
         (1) The judges are chosen for a particular dispute.
         (2) They are chosen by the parties to the dispute.

C. The World Court is permanent, while the Hague Tribunal for Arbitration is not, for
   1. See above (I, D); and

D. A permanent court can accomplish more than a court which has to be created anew for each case, for:
   1. A permanent court will be used more frequently than one which has to be re-created, for

a. Arbitration, even under the Hague, was too inconvenient, for
   (1) Even the delegates to the second Hague Conference admitted this.
      (a) Resolution of the conference.
   (2) In the twenty-five years of its existence the Hague was used only nineteen times.

b. The delegates to the Hague in 1907 gave this as one reason for the adoption of a permanent court, for
   (1) A permanent court is more readily accessible.

2. A permanent court can do more to develop international law, for
   a. Continuous and organized effort is necessary in order to determine the rules of international law.
   b. Boards of arbitration do not permit continuous or organized effort, for
      (1) Each case is decided by a different board.
      (2) The arbitrators are chosen for that particular dispute alone.
      (3) Mr. Choate recognized this fact in stating the views of our government.
         (a) Extract from his speech at the Hague in 1907.
   c. A permanent court makes such effort possible, for
      (1) The same body of men are deciding cases throughout a long period of years.
      (2) The delegates to the Hague in 1907 gave the fact that a permanent court would facilitate the development of international law as one reason for the adoption of a permanent court.

III. Entrance into the Permanent Court is in accord with our traditional policy.
   A. The United States has always sought such a court.
      1. President McKinley's statement.

2. Instructions of the American State Department to the American delegates to the Hague Conference of 1907.
3. Attitude of the Senate on compulsory submission of disputes.

B. The Court is not a foreign entanglement.
1. Letter of the State Department to the Senate Foreign Relations Committee.
2. Advisory opinions are on the same basis as a technical commission of the League of Nations.
3. The Court is a judicial body and not a political one.
a. Statement by Elihu Root.

C. The Court has satisfied our reasonable expectations.
1. It is not a Utopia, but
2. It has the essential elements of success.
a. Permanency.
b. Making decisions on justice rather than compromise.

NEGATIVE

I. The United States should not enter the Permanent Court, for
A. The World Court is impotent and cannot prevent war, for
1. It did not operate to prevent war in the Corfu case, for
a. This case nearly caused war, but Italy refused to take it before the Court.
2. The Court has not settled the Ruhr controversy, for
a. France will never submit this case to the Court.
b. A state of war has existed but the Court has not operated.
3. The Court has not, and cannot settle the Panama Canal tolls case, for
a. The United States would not submit the case.
4. The Court has not settled the Armenian Massacres case.

B. The cases taken before the Court have been unimportant, for
   1. The Tunis-Morocco case was relatively unimportant, for
      a. It was a case of citizenship.
      b. It was actually settled by the Council of Ambassadors.
   2. The question of International Labor delegations was not a vital one.
   3. All others handled by the Court were minor.

C. The Court does not outlaw war, for
   1. It bases its decisions upon international law, which recognizes the legality of war.
   2. To prevent war the Court must declare war wrong, for
      a. Murder could not be made punishable as a crime until it was declared illegal.
      b. War is merely legalized wholesale murder.

II. Entering the present World Court is dangerous.

A. The Court has objectionable political affiliations with the League of Nations.
   1. We cannot support a Court created by a body which we have repudiated.
   2. The League elects judges and fills vacancies.
   3. The League pays the salaries of the judges
   4. The League will dictate the decisions of the Court.

B. The make-up of the Court is dangerous.
   1. The Court will interpret the Treaty of Versailles, which we have repudiated.
   2. The Court cannot guide public opinion.
   3. The Court is merely a sop to the American people.

C. The foundation of the Court is dangerous.
   1. The Court has no potential power or capacity to deal with the causes of war.

III. The United States is a powerful nation and an idealistic one.

A. We should work for the following change in the present World Court.
   1. The Court must be open equally to all nations.

2. Its financial direction and the election of its members should be taken away from the League and put in the hands of the Hague Tribunal.
3. It must be given the power to investigate all disputes leading to war or likely to do so, and to publish its findings.
4. It must outlaw war.

PERMANENT COURT OF INTERNATIONAL JUSTICE

WESTERN RESERVE UNIVERSITY

versus

UNIVERSITY OF INDIANA

PRESIDING OFFICER

Dean Wilfred G. Leutner

FRIENDS: we are very glad to welcome tonight for the first time, the debating team from Indiana University, and we hope it will not be the last time. The representatives of Indiana University will debate with the representatives of Western Reserve University on the question, "Resolved: That the United States should enter the World Court." You will be interested to know that this same subject is under discussion in two other places tonight, one between the University of Indiana and Notre Dame and the other between Western Reserve University and Notre Dame.

The speakers on the Affirmative and on the Negative will have ten minutes each to present their arguments and after the main arguments have been presented, each speaker will have five minutes for rebuttal.

The judge this evening is Professor H. A. Wichelns, of the Department of English at the University of Pittsburgh.

FIRST AFFIRMATIVE

Gilbert R. Johnson, Western Reserve

MR. CHAIRMAN, LADIES AND GENTLEMEN: As Professor Leutner has already announced, this is the first debate the University of Indiana has had with Western Reserve University and it

gives me great pleasure, as the first speaker, to extend to the men of Indiana University the hearty greetings of Western Reserve University.

In advocating that the United States should join the Permanent Court of International Justice, you naturally want to know just what attitude the Affirmative takes regarding certain preliminary questions. By the terms of the question it is not necessary for the Affirmative to advocate adhesion to the Court with reservations. Therefore, we propose entrance without the Harding reservations. The gentlemen of the Negative will no doubt tell you that the Affirmative is advocating entrance into the Court as it is at present constituted. That is just what we do advocate.

Now if we do not advocate entrance with reservations, the question at once arises as to what stand we take on the League of Nations. Do we advocate entrance into the League or not? On this point we of the Affirmative take a decided stand. We do not advocate entrance into the League of Nations, and furthermore, we contend that the Court is not connected with the League in *any way* which would affect the *United States.*

Of course, the only way to join the Court is the same as adhering to any other treaty, which is by signing the treaty, and the treaty in this case is the statute of the Court. As most of you doubtless remember the protocol has an optional clause which if signed makes it obligatory upon the signer to bring certain kinds of disputes before the Court. We do not believe that the United States could sign the optional clause. Under present conditions we believe it would be inadvisable for the President to negotiate a treaty giving the Court compulsory jurisdiction.

Let it be clearly understood that the United States would preserve her complete freedom of action in joining the Court, and we will in no way be bound to take part in European disputes, and we challenge the gentlemen of the Negative to show a single clause in either the statute of the Court, or in the rules of the Court, or in any other official document which would oblige any member of the Court to compel any other nation to carry out an award of the Court.

However, there is one more question which is even more fundamental than these, for upon the solution of this question depends the answer as to whether or not the United States

should enter the World Court. Before we can decide whether the United States should join such a Court, we must first agree upon what anyone has a right to expect from such a Court. We believe that all that any one can reasonably expect is that the Court shall decide any and all cases brought before it on principles of justice without regard to compromise, so that it will continually gain in the confidence and esteem of the world. This does not mean that the Court is to be condemned as a failure because the nations have not placed *all* their disputes before this *new* instrumentality. It is sufficient if the Court has settled the cases brought before it on principles of justice and has demonstrated its possibilities for wider and more varied usefulness.

It is upon this fundamental and reasonable belief without which progress can never be made, that we advocate the entrance of the United States into the Permanent Court. We urge that the United States should join the Permanent Court for these three reasons: first, because the Court is an improvement over anything yet devised. Second, because the World Court offers the soundest basis for the development of international order. Third, because it is in accord with our traditional American policy.

I, as first speaker, shall show that the Court is an improvement over anything yet devised. The first attempt to establish a permanent court of justice was made at the first Hague Conference in 1899. That attempt failed. But this much was done; a panel of arbitrators was selected from among whom nations would be able to choose a requisite number to arbitrate a case. At the second Conference in 1907 another attempt was made, especially on the part of the American delegation. This attempt also failed. At the conclusion of the Great War it was provided that there should be set up a Permanent Court of International Justice, and for this purpose the League appointed a commission composed of world-renowned jurists, the chairman of which was that eminent American, Elihu Root. This commission drew up the plan of organization and the statute under which the Court is now constituted and is operating.

At the present time there exists the Hague Tribunal of Arbitration and the Permanent Court of International Justice side by side. The framers of the statute intended one body

to supplement the other. In other words, it was found in practice during the past twenty years or more that the Hague Tribunal lacked several elements which were necessary to a proper and impartial settlement of international disputes. The chief deficiencies of the Hague Tribunal were its lack of permanency, and the basis upon which its decisions were made. We do not intend to charge the Hague Tribunal with incompetency or anything of the sort. It never was intended to possess these features which are, however, essential if any progress is to be made in the peaceful settlement of international disputes.

The first of these defects, namely, that the Hague is not permanent, was recognized even by its most ardent admirers. Indeed, even the progenitor of the Court, the Hague Conference itself adopted a resolution in which it stated as follows: "The Tribunal is not permanent for it exists only for a special case and has to be created anew for each case submitted." Each time a case came up the parties had to chose three or five men from a group of one hundred and forty-four. This fact, that the Arbitral Commission had to be reestablished for each separate case, was recognized even by its creator as stripping it of any vestige of permanency.

Is this defect remedied by the Permanent Court of International Justice? Most emphatically yes! The Permanent Court is composed of eleven judges and four deputy judges instead of one hundred and forty-four arbitrators as in the Hague Tribunal. These eleven judges are elected for a term of nine years and may be reelected. The entire Court sits on every case, and consequently the same men are hearing all the cases. This Court has a permanent registrar or clerk, who is resident at the seat of the Court and keeps the Court records as in any other court of justice. The Court elects a president who must remain at the seat of the Court at all times. The president may call the Court into session at any time that a case may arise and, most important of all, the Court must meet at least once every year. So we see that the essential element of permanency which is lacking in the Hague Tribunal is supplied in the Permanent Court.

The second defect of the Hague Tribunal is the basis upon which its decisions are rendered. The Hague Tribunal is one for arbitration. The very basis of arbitration is compromise

as distinguished from justice, a diplomatic settlement rather than a judicial one. This point was very carefully recognized by the State Department when in its instructions to the delegates of the second Hague Conference, it stated, "It has been a very general practice for arbitrators to act, not as judges under a sense of judicial responsibility, but as negotiators effecting settlements in accordance with the traditions and subject to the influences which affect diplomatic agents. Arbitrators too often act diplomatically rather than judicially."

It was because of this desire to secure a settlement on the basis of justice rather than compromise, that the Permanent Court was made a court of justice rather than a tribunal of arbitration. Article 38 of the statute provides that in making its decisions, the court shall apply international conventions, international customs, and the general principles of law recognized by civilized nations. The result of this is summed up by Mr. Elihu Root, the Secretary of State who wrote the instructions in 1907 expressing the dissatisfaction which I have just read when he stated recently that, "In the Permanent Court of International Justice no diplomatic agreement is sought or attained. Each judge does not represent his country, does not execute the orders of any foreign office, does not reflect the policy of any government, but upon his own conscience decides upon the basis of the evidence and the law."

Another thing that obviates any compromise, is that the judges owe their position to no particular power. In the Hague Tribunal each arbitrator was appointed by a particular nation to represent it in a particular dispute. The judges on the Permanent Court are elected by all the nations to hear all the disputes which may be brought before it in the next nine years. They are elected without reference to any particular nation, without reference to any particular dispute.

We see then that the same cases may be brought before either the Hague Tribunal or the Permanent Court. But the two bodies are radically different. First, because, whereas the Tribunal lacks permanency, the Court has the element of permanency; secondly, because while the Hague Tribunal of Arbitration seeks to effect a compromise, the Permanent Court of International Justice renders a judicial decision.

FIRST NEGATIVE

David Allen, Indiana

Mr. Chairman, Ladies, and Gentlemen: We wish to express our extreme pleasure in being able to meet this evening with your team and as the gentleman of the Affirmative stated, we too, hope to be able to debate Western Reserve again in the future.

The gentleman of the Affirmative has just outlined the case and has told us, the question at hand is not to include reservations. With this the Negative agree. Then the gentleman of the Affirmative outlined the case and it is upon this issue that we probably meet our first point of disagreement. He advocates that the United States should join a world court simply because it is functioning, but we advocate that the United States should not join a world court unless that world court is functioning to a definite end.

Now You People in the audience here have heard that the World Court is an instrument for world peace, and as the gentleman of the Affirmative has told you, it attempts to settle questions involving international disputes upon principles of justice and right in place of diplomacy.

We are not fighting against the Hague Tribunal. We agree with the gentleman of the Affirmative that the Hague Tribunal has certain deficiencies; but if there is a need for a world court, we would like to know what that specific need is. Certainly there is a public need for some institution to secure world peace and it is because of that that we of the Negative oppose this World Court. We believe that the World Court cannot function effectively to secure world peace. In the second place, we believe that entrance into the World Court by the United States would be dangerous; and finally, our third speaker will present a plan of improving the World Court to make it a real world court.

Now the Justice of Peace Courts decide questions upon a basis of justice and right, but who would want to take the United States government before a Justice of the Peace Court simply because it decided questions upon the basis of right? If the United States is to enter a world court, she must enter a world court because it has a definite end and that end is, as published to the world, peace.

Now, let us examine this World Court a minute. The gentleman of the Affirmative was right when he said this World Court decides cases brought before it, because it is only those cases that the World Court can decide. Unlike our American courts, it cannot call miscreants before it but must wait until they come of their own free will. Obviously, if this World Court is to secure world peace, it must investigate all disputes likely to cause war. Yet if the World Court does not examine the dispute, unless the nations thereto agree to submit it to the Court, the World Court is worthless.

Recent history has demonstrated that the World Court has functioned to a remarkable degree. It has taken care of eight minor cases, none of which really concerned the United States, and if the United States is a world power of any real significance, surely we would want to join a World Court that has something to do with world peace. Now let us examine some of the greatest cases that came before the World Court. There was the Corfu case. In 1923 some Greek bandits shot some Italian soldiers of Mussolini The Italians rose up in arms against Greece. Greece appealed the case to the Council of the League of Nations, which, in turn, attempted to take the case before the World Court, but Italy refused and the World Court remained helpless, and it remained for diplomacy to finally settle the case. Yet the gentleman of the Affirmative has advocated the World Court to eliminate the use of diplomacy in settling international disputes.

Now, let us examine further some of the cases that are before the world today. You all have heard of the Ruhr controversy and you know the Ruhr question has been keeping the world in a state of upheaval. What is the World Court doing? It has been sitting idly by and has folded its hands and let France continue her nefarious policy in spite of the public opinion of the entire world.

There are other questions which might come before the World Court. Take the Panama Canal tolls case. The World Court has not touched this question and is it possible or is it probable that the World Court will touch that question when it is not very likely that the United States, even though she were a member of the World Court, would ever submit that question to the Court?

There is the Japanese immigration question. Some people think that the United States is likely to get into a war with Japan over this very question. What has the World Court done? As usual, it has not touched the case.

Possibly more significant than all of these is the case of the Armenian massacres. You know the attitude of Turkey toward Armenia. You have shuddered as you have read the papers and wondered why a stop could not be put to such a thing as that. If the World Court is to secure justice and right, certainly it would have had something to do with the case of Armenia. What has it done? Sat idly by and has not touched that case.

Now, let us see what it has done. There are only two cases that can be mentioned. The rest of them are merely advisory opinions, and of no vital concern to anyone. Let us concern ourselves with the typical cases. There is the Tunis-Morocco case. That is a case of citizenship. France decided that after a certain date all people within that country should become French citizens. England desired to call the case before the World Court. The Court decided this was an international affair and favored England but the case was actually settled by means of diplomacy. The very thing the gentleman of the Affirmative said will be eliminated by the World Court!

Then there are other important things. Obviously, if a world court is to secure peace, it must include all the nations of the world This World Court does not recognize and will not recognize nations unless they are members of the League of Nations. By that we mean they will give no nation a right in the government of the Court unless they are members of the League of Nations. Russia, Turkey and Mexico are not members. How can a World Court operate to secure world peace if it includes only the more peaceful nations and excludes the belligerent nations whose policies are always warlike.

Finally, before an existing act can be declared a crime, it must be wrong in the eyes of the law. Murder is a crime and it is punishable as such because the law declares it a crime. What is the attitude of the World Court toward war? We have been told its decisions are based on international law; yet one-third of international law recognizes war as right and establishes rules for the conduct of war. How

can a world court which bases its decisions upon international law without even disavowing war as wrong, expect to prevent war?

In conclusion, we ask the gentlemen of the Affirmative to meet the issues of this debate squarely and show us how the World Court is going to function and meet the needs of the world.

SECOND AFFIRMATIVE

Arthur E. Petersilge, Western Reserve

Mr. Chairman, Ladies and Gentlemen: The speaker who preceded me has asked the Affirmative to meet the issues squarely. We are perfectly willing to do that. The only question is: What are those issues? The gentleman has said that the Court is not functioning effectively because it has not dealt with all the big questions facing the world today. We take issue with him upon that point.

The gentleman said that the World Court has not dealt with the Corfu case, the Japanese immigration question, the Panama Canal tolls, the Ruhr, etc., and he concluded that because the Court did not handle those questions it was a failure. We maintain that the question is not whether the World Court right away, off-hand, in the very beginning, takes the biggest problems in the world and settles them. It is whether the World Court possesses the essential elements that will enable it to gain the confidence of the nations of the world, because if the Court can win their confidence it will soon have more cases.

In the United States we usually think of our Supreme Court as a strong institution, universally revered. Yet there was a time when that court was not the powerful and influential body that it is today. Early in our history the Supreme Court was considered a failure. The first two sessions of the court were adjourned for lack of business. One man who was Chief Justice resigned to become governor of his state because he thought the job was not important enough. He thought he could do more good as governor of his state than as Chief Justice of the United States. Three years after the court was established, John Jay, then Chief Justice, took a year off and went over to England to make the famous Jay

treaty, because he didn't have enough to do as Chief Justice of the United States—and the Supreme Court had so little business at that time that the absence of the Chief Justice for a whole year was never even noticed!

That is the way our Supreme Court started. Why has a body that was so weak become so powerful? From the very beginning it had compulsory jurisdiction, which the gentleman of the Negative has declared to be essential to success. But it lacked influence in our early history, and it is powerful now, because in its early years nobody had any confidence in the Supreme Court. Only gradually did it win their confidence by the justice of its decisions, and as it won their confidence more and more cases were brought before the Court. It is not compulsory jurisdiction that makes a court a success. The important thing is the ability of the Court to gain confidence of the suitors. So far the World Court, a new and comparatively untried institution, has not had time to become firmly established, or to build up a reputation. But if it has those essential elements which will give it the confidence of the nations of the world, we have every right to expect that the World Court, like our own Supreme Court, will find its business and its influence increasing. It is because we believe the World Court has those essential elements that we advocate that the United States should join the World Court.

As second speaker of the Affirmative, I hope to prove that the World Court offers the soundest basis for the development of international order.

As my colleague has proved, the World Court is an improvement over anything yet devised for securing justice in international relations: first, because it is permanent; and secondly, because it is a court of justice rather than of compromise. I hope to show why a court that possesses these two attributes will do more to bring order out of chaos in international relations than one that does not possess them.

As has been pointed out, the Hague Tribunal for Arbitration is one for the adjustment of rival claims. The World Court is one for the determination of right. It follows that a nation which hesitates to jeopardize its rights in the compromise of Hague arbitration will gladly place those same rights before a court of justice. Seventeen years ago—long

before this question ever became a political issue—our government recognized that very important fact. As the result of over a century's experience with arbitration, our State Department said: "It very frequently happens that a Nation which would be very willing to submit its differences to an impartial judicial determination is unwilling to subject them to arbitration." The other nations of the world have generally recognized the same thing. The very fact that they have established an impartial judicial tribunal before which they can bring their disputes is evidence of that.

And that they meant to give this new creation of theirs more than mere lip service was soon made evident. The nations of Europe are using the Court. France, England, Germany, Italy, Poland, Czecho-Slovakia, Holland, and Japan have all appeared before the World Court. All in all, in the two brief years of its existence, the World Court has been called upon nine times. Even the gentleman of the Negative admitted that, but he tried to dismiss seven of them as mere advisory opinions. What he failed to tell you was that even in the case of the advisory opinions, which place no obligation whatever upon the parties to the dispute, the nations had such confidence in the impartiality of the Court that both disputants immediately carried out the opinion of the Court.

Meanwhile, what about the Hague? Have the nations given any indication of whether they prefer justice to arbitration? It is significant that since the World Court has been established, although the World Court has been used nine times, the Hague has not been used once! Evidently, when the nations have to choose between the Hague Tribunal of Arbitration and the Permanent Court of International Justice, it is the Court of Justice that gets the call. The class of disputes that formerly went to the Hague are now being taken to the World Court, and that change is perfectly natural. The knowledge that the judges on the Court are not chosen by a particular nation for a particular dispute; the knowledge that they were selected by a general vote, and that they were picked long ago, before the dispute of the present moment could possibly have been foreseen, naturally increases the belief in the impartiality of the judges. The lack of any possible partisan bias is the greatest assurance that the Court will gain the confidence of the nations of the world. And as it does gain their

confidence, there is every reason to believe that the World Court, like the Supreme Court of the United States, will find its work becoming greater and its prestige mounting higher.

There is a second reason for coming to the same conclusion. That is because the Court is permanent. As my colleague has shown, the so-called Hague Court was in no sense a permanent court. A special tribunal, which invariably differed from the one preceding it, had to be constituted for each separate case, with the result that it was very difficult to use the Hague Court. The Hague was entirely too inconvenient, and in the whole twenty-five years of its existence only nineteen cases have ever been taken before that Tribunal. Even the delegates to the Hague Conference in 1907 frankly admitted this defect, and they adopted the following resolution: "The framers of the Convention meant the [Hague] Court to be accessible at all times to the suitors. This excellent end was frustrated by faulty machinery, because an unconstituted court cannot be said to be accessible at any time, much less at all times." The delegates to the Hague thus placed themselves on record as stating that it was too difficult to use the Hague Court, and they attempted to remedy this by proposing a permanent court (one very similar to the present World Court) but the plan failed. However, now that we do have a permanent court, the same reasons that urged its adoption in 1907 are still operative. A permanent court is more convenient, the nations can have access to it more readily, and the result is that they will use it more frequently.

But that is not the only advantage of a permanent court. The thing that loomed largest in the minds of international jurists was the possibility of developing international law. Hitherto, international law has been in a sadly undeveloped, rather chaotic state. Why is that true? Because the scattered, unconnected boards of arbitration gave no opportunity for such development. Mr. Choate, the chairman of the American delegation to the Hague in 1907, spoke before the Hague and presented the views of our government. He said: "The fact that there was nothing permanent, or continuous, in the adjudication of the cases submitted to it, has been an obvious source of weakness in the [Hague] Tribunal. Its occasional utterances, widely distant in point of time and disconnected in subject matter, have not gone far toward constituting a consistent

body of international law." In other words, Mr. Choate realized that as long as each case was decided by a separate board of arbitration, unconnected with the one preceding it, and that as long as it was decided by men picked for that particular dispute alone, the development of international law would be hindered. In order that the great body of the principles of international law may be determined, continuous and organized effort is necessary. Because of this, the delegates to the Hague Conference advocated a long term for the judges, and a permanent court. When the most distinguished jurists in the world are thus able to agree that a permanent court is necessary in order to attain that continuity which is essential for the development of international law, we may unhesitatingly accept their statement as fact.

Because the World Court is permanent, it can develop international law, and will be used more frequently. Because it is a court of justice, it will gain the confidence of the nations of the world. We therefore believe that the World Court offers the soundest basis for the development of international order.

SECOND NEGATIVE

Morgan Gerhart, Indiana

Mr. Chairman, Ladies and Gentlemen: Professor Borchard of Yale has said, "We cannot go into the Court on sentimental grounds alone." The argument that we do not have to submit cases to the Court shows that we probably would not submit cases to the Court and prompts us to look further into the merits of the Court.

The Permanent Court of International Justice has been functioning for four years and it is not worth while because it cannot be worth while, because it cannot call under its jurisdiction, any of the important cases confronting the world today. The gentlemen of the Affirmative say that the jurists drew up the project as at present constituted and operated, but the clause providing that no decision should be binding was inserted later by the League of Nations, and that shows to you the power which the League of Nations had over the making of this Court—an institution to which we do not belong.

They say the present Permanent Court of International Jus-

tice is in existence and functioning—and so is the League of Nations functioning, but we are not members of it, nor did we join the Dual Alliance or the Triple Alliance.

They say the Court is American in its inception but the United States thus far has disavowed the Court. Does that show that it is American in its inception?

The first speaker of the Negative has shown (and we believe conclusively) that the World Court as constituted is an entirely impotent organization. In numerous cases it has been helpless to call disputes under its jurisdiction. He has pointed out that we can never obtain world peace by subscribing to a court which recognizes as legal, and merely regulates, war. Also he has shown that there can be no universal peace through a court which excludes from its membership several of the most troublesome nations of the world.

Those objections are fundamental, because nations will not cooperate and submit cases freely to a world court unless it is open and above board, where justice may be had and where there is no chance for political intrigue and alliances.

Let us see still other matters wherein this incompetent Court fails. We of the Negative further contend that the World Court as constituted is dangerous, first, because of the objectionable political affiliations with the League of Nations; second, the make-up of the Court is dangerous; and third, the foundation of the Court is dangerous. A true World Court would be most powerful by having to render merciless publicity to all international disputes.

Returning now to the first point. Certainly, the gentlemen of the Affirmative cannot deny that the United States has, for sufficient reasons, refused and rejected to enter the League of Nations; and whether she did right or wrong, since the United States has disavowed the League, it would be inconsistent to become a member of the Court which was organized by the League which the United States disavowed.

And yet, the League in accordance with article 14 of its covenants organized and formulated the existing World Court for it says, "The Council shall formulate and submit to the members of the League for adoption, plans for the establishment of a Permanent Court of International Justice." Our entrance into the Court, then, would have us supporting an institution created by a body with which we have refused to

be involved. Can the gentlemen of the Affirmative explain away this dangerous connection with the League of Nations which the United States has disavowed?

Let us see what direct connection the World Court has with this European League of Nations. According to Article 3 of the Court statute, the League can increase the number of judges, and that is a source of power. Also according to article 4, the judges are elected by the Council and Assembly of the League and to support the strong arm of the League, it can add names to the list of nominees for judgeships. Moreover, the League reserves the right to fill vacancies and that alone might mean that within a few years the League had elected every single judge absolutely arbitrarily. What would prevent another case of "midnight judges" as happened in our own Supreme Court when John Quincy Adams filled the vacant seats on the bench before retiring from office at midnight?

The League pays the salaries of the judges and expenses of the court; and it is not through a sense of liberality that we wish to help defray these expenses, but because we know a man is somewhat dominated by, and responsible to, the person or persons from whom he receives his salary and expenses.

As pointed out by David Jayne Hill, in the International Conciliation Magazine, "The fact that the recommendation of the Committee of Jurists for the clarification and extension of international law was rejected by the Council and Assembly of the League certainly infers that in place of this method of improving international law by the Conference of Jurists, it is intended that the Court shall be guided by the quasi-legislation of the Council and Assembly, which are merely political bodies."

In the second place, the make-up of the Court is dangerous. We have shown that the League organized and formulated the existing World Court. Now according to the hand-book of the League of Nations, the League of Nations formally came into being officially at the Treaty of Versailles. The World Court, then, in rendering decisions to the League of Nations would show the connection between the World Court and the League, because it would be bound to interpret the provisions of the Treaty of Versailles—a protocol with which the United States has disavowed all connection.

In the third place, the foundation of the court is dangerous. The Court as constituted has no potential power or capacity to

deal with the causes of war. What we need right now is merciless publicity. Therein lies the strength of a true world court and that is the breath of life necessary to mould world publicity against war. To provide publicity to unify and direct and enlighten public sentiment throughout the world which is now at the mercy of clamor and propaganda.

The avowed purpose of the Court is to bring about peace. Is it true? If Germany had made known her true reasons for wanting a war, a war would never have been started. If there had been a proper diffusion of knowledge in the matter, Austria would not have entered. As it was, Austria based her claim on the murder of one man. If a strong international commission were given power to render merciless publicity on all international disputes, it would mend some of the troubles among the nations.

THIRD AFFIRMATIVE

Jerome Curtis, Western Reserve

Mr. Chairman, Ladies and Gentlemen: It is indeed a direful and doleful picture that the gentlemen of the Negative have drawn for you, but I shall endeavor to relieve you of the undue fear he has aroused. But before we proceed further, permit me to summarize the case of the Affirmative thus far. We have seen that the United States should join the Permanent Court because it is the best means yet devised for securing international justice, and because it offers the best opportunity for the development of international order.

And now, to cheer up the gentlemen of the Negative. It would be perfectly safe for the United States to join the Permanent Court because entrance into the court is in accord with our traditional policy. The gentleman said that the American people have repudiated the Court. May we ask the gentleman to tell us when the American people by a direct vote or by the enactment of any legislative body repudiated the Permanent Court of International Justice. On the contrary it has been the highest aim of our national policy. The United States has often resorted to arbitration, but it has always desired to have some means set up whereby a judicial settlement could be substituted for an arbitral one. As President McKinley

stated, "It has been recognized as the leading feature of our foreign policy throughout our entire national history that there should be the adjustment of international disputes by judicial methods."

The State Department instructed the delegates to the second Hague Conference in 1907 that, "It should be your effort to bring about a permanent tribunal composed of judges who are judicial officers and who will devote their entire time to the trial and decision of international causes by judicial methods and under the sense of judicial responsibility." So we see that it has always been the policy of the United States to have created just such a court as this Permanent Court of International Justice.

Now the gentlemen have said a great deal this evening about obligatory jurisdiction. We are discussing the entrance of the United States into the Court as a practical matter, and as a practical matter a court with compulsory jurisdiction is impossible so far as the United States is concerned. The Senate has consistently refused to ratify treaties which make the submission of disputes obligatory. In view of this attitude, the State Department in a communication to the Senate Foreign Relations Committee said, "The question (whether we should accept compulsory jurisdiction) must be answered in the Negative. This is for the reason that the Senate has so clearly defined its attitude in opposition to such an agreement, that it would be entirely futile for the executive to negotiate that sort of a treaty."

So this sort of a court—this Permanent Court of Justice—one without obligatory jurisdiction, is the kind of a court we have been working for.

It has also been our policy to avoid foreign entanglements. The gentlemen of the Negative have spoken of the Treaty of Versailles. We do not propose to debate the merits or demerits of the Treaty of Versailles, but we do maintain this, that by joining the Court we will not assume any obligations under the Treaty of Versailles or any other treaty to which we are not a party. The State Department in another communication to the Senate Foreign Relations Committee stated, "None of the signatory powers by cooperating in the establishment and maintenance of the Court make themselves parties to treaties or assume obligations under treaties between other powers." It

is evident then that we shall not be compelled to become a party to the Treaty of Versailles.

The gentlemen have said that if we join the World Court, we are going to become mixed up with the League of Nations, because the League may call upon the Court for advisory opinions. This idea arises from an erroneous conception of the nature of the Court's advisory opinion. As John Bassett Moore, the American member of the Court, states, an advisory opinion is of the same nature as the report of a technical commission. We are officially participating in the work of many of the technical commissions of the League and we do not feel that we are entangled. We are not averse to advising the League on economic matters and on health matters, and we are no more involved when we give them an expert opinion on a point of international law. The gentlemen of the Negative have failed to explain how participation of the United States in the work of eleven commissions instead of ten will entangle us.

Finally, the Court is not a political body but a judicial one. The judges represent no country, they represent no policy, they act simply as individuals. As Mr. Root stated, they decide the cases before them simply and wholly upon the evidence and upon the law. The Court is thus in accord with the other great principle of our policy, because it is in no sense an entanglement. Therefore, because the Court is in keeping with our traditional policy and represents a goal we have been working for, the only reasonable and logical thing for the United States to do is to join the Court and lend to it the enormous prestige and influence of our great moral position.

Now, ever since Mr. Harding first proposed that we join the Permanent Court, a certain group has depicted the Court as a veritable Lorelei, singing her song of international justice in order to lure the unwary American ship of state onto the rocks of disaster. Another group, equally vociferous, fancies the Court indeed a seventh heaven of Paradise. As a matter of fact, the Court is not an ingenious device of the devil, not a seductive daughter of Eve, but neither is it the trumpet call of the Angel Gabriel. It is really a very mundane affair, possessing elements neither of holiness or unholiness.

The gentlemen of the Negative have intimated thruout the

course of the entire debate that we of the Affirmative are but idle dreamers, dreaming a dream that can never come true. They, on the other hand, are hard-headed practical persons who view the whole problem of international justice from the cold facts and not through the roseate shimmer of a cloud of idealism. The gentlemen say the Court lacks this, the Court cannot do that, the Court is not perfect. But the gentlemen by their very argument proclaim themselves the idealists they charge us to be. Their great visions of what an ideal system of international justice should be do them great credit. We agree with them that the Court is not perfect, but whereas they hang up their harps by the banks of the river Jordan and, bemoaning the sad state of the world, spurn association with anything less than perfection, we realize that while the Court is not a utopian ideal, it is yet more than we have had in the past, that it is a great step in the direction of that ideal of world justice that we all hope for. No human institution can begin with the fulfillment of its purpose. The United States Supreme Court was not at its inception the powerful body that it is today.

We cannot ask that a Court of two years standing, shall have the power, the influence and the prestige of one that has existed for almost one hundred and fifty years. We have seen that what we may reasonably expect from such a court is that it decide the cases brought before it, on the principles of justice, so that it will continually gain in the confidence and esteem of the world. In order to do this, the court must have permanency, and it must render its decisions on the basis of justice rather than arbitral compromise. The essential elements of success which were lacking in the Hague Tribunal are supplied in the Permanent Court. The Court does possess those attributes which we have a right reasonably to expect, because it is not a fluctuating panel of diplomatic agents, but a permanent body of trained judges; because it seeks not a compromise on the basis of opposing diplomatic policies, but renders its judgment on the evidence and the law; because it has demonstrated its practicability, and will attain a fuller and wider use as it continually builds up its prestige; and finally, because it is uniquely a product of American initiative and American aspirations, embodying as it does the traditional and cherished policies and principles of the American people. For all these reasons

we hold that the United States should join the Permanent Court of International Justice.

THIRD NEGATIVE

Waheeb Zarick, Indiana

Mr. Chairman, Ladies and Gentlemen: We must again talk about the issues of this debate. The gentlemen of the Affirmative have tried to prove to you that we ought to join the World Court because it is the best means yet devised, it is better than the Hague Tribunal; and that it offers a chance for development and is in accordance with our policy.

Mr. James Brown Scott, who was jurist advisor of the American Delegation at Paris and who was the gentleman that the Affirmative quoted, said, "With some considerable modification by that body which changed the nature of the tribunal from that of a court of international justice or a court of justice in the strict sense of the word, to a tribunal of arbitration with a permanent panel of judges." That does away with the distinction between the Hague Tribunal and the Court. Mr. James Brown Scott in a book about the Permanent Court of International Justice, said, "The Court has, therefore, a double purpose and two-fold jurisdiction. It is the judicial organ of the League of Nations to any dispute and is also advisor to the Council and has respective duties upon any dispute," showing conclusively there is a connection between the League of Nations and the World Court.

We do not argue against the League of Nations but we say that as long as the United States, as a people, have shown by their vote in the fall of 1920 that they do not want to join the League of Nations, we should not in any way attempt to go into an institution fostered by the League of Nations. The World Court is an adopted child of the League of Nations, and there is no dispute when we say that theirs is a plan connected with the League of Nations.

The judges of the World Court are selected by the Assembly and Council of the League of Nations. It says that in the constitution of the World Court, and the gentlemen of the Affirmative must explain how, if the judges are elected by the Council and Assembly of the League of Nations, there is no connection between the League of Nations and the World Court.

As a people who are used to representation we will have no representation in the World Court, because we are not members of the League of Nations, and therefore, we will have no voice in the election of judges. Secretary Hughes said that there is one reason why the United States should not join the World Court and that is because we have no voice in the election of judges. President Harding said that there is admittedly a connection between the League and the World Court and he would frankly prefer complete independence from the League. He said in his speech in St. Louis in June, 1923, that the League of Nations has no connection and the project which was made by jurists was accepted as such by the League of Nations so constituted now.

Mr. Herbert A. Smith, Professor of Jurisprudence of Montreal University said, "Referring to Article 59 of the Court which says that every decision of a case is for this particular case only, that this clause does not appear in the original draft drawn by the advisory committee but it was inserted in the early days of the League. From this it is clear that it was the deliberate intention of the League to exclude from the world any idea that the court was permitted to employ international law by the decisions in the individual cases."

The United States has been looked upon as a very great nation and there is no European, no Asiatic, no one living outside the United States that would not want to change places with a citizen of the United States. We are looked upon as a great nation. Why? Because we have resources, power, and we are a progressive nation, and we became such because we have determinedly placed ourselves in a political isolation from Europe. Now, if the rest of the world want us, we ought to look, we ought to aim for ideals, and we ought to have an ideal in the World Court.

Now, we believe in the principle of the World Court, but we do not believe in the principle of *this* World Court which the Affirmative are advocating. The gentlemen of the Affirmative said that the people of the United States have repudiated the World Court and that is an actual fact. The repudiation came about by the government. They made reservations and they showed conclusively that there is a connection between the League of Nations and the World Court. There are four reservations: that we ought to have a voice in the election of judges; that the constitution of the World Court should not be amended

without our consent; that we ought to pay our share of the expense; and also, that there should be no connection whatever, when we shall become a member of the World Court, between the United States and the League of Nations. This shows there is a connection and a reason why the United States in three years did not join the World Court.

There is a fear on the part of the United States that we might in some way get contaminated by the League of Nations. We have nothing against the League of Nations, but as long as we are not in the League of Nations, we should not enter any institution that would admit us into the League of Nations by the back door.

We are offering tonight some changes that ought to be made in the present World Court that ought to prevent wars. That is what the United States wants—a world court that will ultimately prevent wars. These changes are: that the World Court be open equally to all nations. Second, that the financial direction of the Court and the election of the judges of the court be taken from the League of Nations and put into the hands of the Hague Tribunal. Third, that the Court be given power to investigate all cases leading to war or likely to lead to war and publish the facts to the world so that the united power of public opinion shall support the right against the wrong.

How will this work? Take the case of the French in the Ruhr valley. As the Court stands it could not act at all, but with these changes it would investigate the case and tell the world what the facts are. Then neither Germany nor France would be able to act passive against the voice of public opinion.

Then we ask that the basic principle of the constitution of the World Court be the out-lawry of war. At the present time the World Court is governed by laws that allow war. We are sure you will agree with us when we say that no court which allows war can be the means of preventing war. We ought to make the out-lawry of war the key-note of the preamble of the constitution of the World Court.

The United States has become a progressive nation and holds a place of liberty because in the Preamble of the Constitution of the United States there is liberty. The preamble of the constitution of the World Court ought to have in it the

out-lawry of war, and unless these conditions are met, we must insist that we shall not enter the World Court.

FIRST NEGATIVE REBUTTAL

Morgan Gerhart, Indiana

Mr Chairman, Ladies and Gentlemen: The selection of judges is under a system to which we do not belong. We do not say obligatory jurisdiction, but we do advocate extended jurisdiction and after all the question is to get nations to submit cases. Extended jurisdiction can be had only through unlimited public opinion and merciless publicity under the direction of an international commission.

The present World Court is merely a sop to the American people. As Senator Moses has said, "It is the rag doll of the League of Nations." The World Court wants to bring us into the League of Nations by the back door.

The gentlemen of the Negative can show no living authority that would want us to enter the present World Court as constituted without reservations and we challenge them to do so. The present World Court is connected with the League of Nations—an organization with which the United States has disavowed all connection, because the League can increase the number of judges, elect the judges, pay the salaries of the Court and pay the expenses.

We do not so much object that we will be brought into the League of Nations. We have more faith in our government than that, but we do shudder at the amount of influence that the League of Nations has over the World Court.

The issues of this debate then may be summed up in the following manner: The gentlemen of the Affirmative are advocating a Permanent Court of International Justice with all its attending weaknesses, while we of the Negative want a true world court improved in the light of experience and reason and in accordance with suggestions by such able world thinkers as Professor Borchard and John Dewey.

Our opponents have shown no objectionable principle which we have advocated. Theirs is a case of expedience, but such arguments were used for the League of Nations only a few years ago.

The present World Court as constituted has no potential power or capacity to deal with the causes of war. Our plan would herald to the corners of the earth all causes of international disputes. When the archives of German cities were made public after the war, we could plainly see why such people could be dragged thru the pit of hell.

The present World Court can only fold its hands and wait for disputants to apply for advisory opinions. If we are looking for true world peace and a true family of nations we must let the right hand know what the left hand doeth.

We advocate a body that functions in an enlightened way. It is the only available, effective course for international affairs.

We have shown, then, that the present World Court is dangerous because it has objectionable political affiliations with the League of Nations. America made certain reservations. Those reservations proved that the make-up of the Court is dangerous, having placed the selection of judges under a system foreign to the United States, and finally, the foundation of the Court is dangerous. There is only one available, effective course for making the Court effective and that is, world public opinion enlightened by merciless publicity under the direction of an international commission.

FIRST AFFIRMATIVE REBUTTAL

Gilbert R. Johnson, Western Reserve

MR. CHAIRMAN, LADIES AND GENTLEMEN: The gentlemen of the Negative have charged the Court with not being able to avert war. Now we just wonder what they mean by saying the World Court is not able to avert war. If they mean that when two nations have declared war that the Court cannot intervene and prevent war, we agree that it cannot. Nothing under the sun can prevent war then. If they mean the World Court in the adjudication of cases and in the settling of disputes, we disagree with them for who can say that the Court when it already has decided nine cases, has done nothing to avert war. Surely cases of war are unjustly settled cases or disputes and we charge them to tell us that there was a single case in the nine cases already handled that would not have led to war.

There is another thing. While we cannot expect the Court

to handle all cases that would lead to war, we must say that it is better than the Hague Tribunal of Arbitration, for certainly the nations want justice in preference to arbitration. This was recognized as far back as 1907 when our Secretary of State was Elihu Root. Mr. Root said, "It very frequently happens that nations that would not be willing to submit differences to the Hague Tribunal of Arbitration are willing to submit them to a court of justice."

If there is any doubt in the minds of the gentlemen of the Negative that the nations do want justice in preference to arbitration, we wish to call to their attention again that the Court of Justice has already decided nine cases in two years of its existence while the Hague Tribunal of Arbitration has not decided one case.

Now there is another thing. While the Court of Justice has not settled nine of the greatest political cases and economic questions that have been brought up, we say it must not be condemned for this reason, for certainly the fact is that it has already removed some of the causes of discord, and secondly, it must not be abolished or condemned because it has not abolished all wars. It must be supported as long as it decides the cases brought before it upon the principles of justice and as long as it does not do anything to promote future discord among nations.

After all, this Court is a permanent court. This Court is a great judicial body. It has been our contention, Ladies and Gentlemen, that this Court is permanent and that it bases its decisions upon the principles of justice and right, and the gentlemen of the Negative have failed as yet to meet our issues. Our fundamental contention is this: That the Court is worth while joining if it decides the cases brought before it upon the principles of justice without regard to compromise and if it demonstrates its possibilities for a wider and varied usefulness.

Now, the gentlemen of the Negative have said there is no difference between arbitration and justice. Now we do not use our own authority when we say there is a difference between arbitration and justice. We recall again the statement of our Department of State when it stated: "It has been a very general practice for arbitrators to act not as judges under a sense of judicial responsibility but as negotiators effecting settlements in accordance with traditions and subject to influences

which effect any diplomatic act. Arbitraters act too often as diplomats rather than judges." This statement was made by Mr. Elihu Root.

This is what exists in the Permanent Court of International Justice. There is no attention paid to diplomatic agreements. A diplomatic agreement is neither sought nor attained. The judges do not represent their own countries. They do not execute the orders of any foreign office and their decisions are based on the evidence and the law. We of the Affirmative believe that the United States should enter this Permanent Court because it is an institution which renders its decisions on the basis of justice rather than compromise.

SECOND NEGATIVE REBUTTAL

David Allen, Indiana

Mr. Chairman, Ladies and Gentlemen: Throughout the debate this evening, the gentlemen of the Affirmative have based their case on trivialities. They have told us that simply because the World Court functions it should be accepted by the United States. Now the United States is a great country whose policies in the past have been sound and if they should enter the World Court, there must be some specific reason.

They have told us the World Court will operate to clarify international law. Yet, they have forgotten that the League of Nations rejected Mr. Root's proposal for a commission to clarify international law. A pamphlet published by the League of Nations tells us that the Court statute stipulated that decisions of the Court have no binding force except between the parties concerned and effecting that particular case. The Court is, therefore, not allowed to make law by precedent, and yet the gentlemen of the Affirmative tell us that the World Court is a basis for the development of international law. Isn't such an argument absolutely absurd?

Now, they have told us it is a basis of a world organization that will develop. We would like to know the specific steps that this World Court is going to take in its development. What is going to be the next step after the clarification of international law, which, as a matter of fact, cannot be brought about?

The gentlemen of the Affirmative have not denied our principles this evening. They have not denied that we should have a World Court to secure peace nor have they denied that we should have merciless publicity in regard to international disputes. They have not denied that the published purpose of the World Court is to secure world peace. Yet, they have not shown how the Court could take up the cases endangering the peace of the world today. If we could take these cases up in detail, we could show you what they are. Let us take the Wimbledon case. That was a question of opening the Kiel Canal. The World Court decided in favor of France and England because they have superior power. Take the Tunis-Morocco case. We are told by Mr. Charles Seldon in the Ladies Home Journal for October that the cause of this case was sufficient to cause war. The nations decided it by means of diplomacy. We would like, then, to have the gentlemen of the Affirmative tell us how diplomacy will be eliminated.

Now you believe, as we all believe, that we should have some kind of an institution to secure world peace. What has this World Court done to secure peace? Has it operated in the Ruhr controversy? Has it operated in the Panama tolls case? What has it done to take care of these cases?

We do not ask too much of the Court when we ask that it show signs of development. One of their own authorities, Mr. Hudson of Yale, has said that the World Court can mean absolutely nothing in the future for world peace. They have shown us how the Supreme Court developed. Yet the Supreme Court of the United States did not have a single case to decide within six years simply because its jurisdiction extended over quarrels between states and there were no quarrels between states in six years. Professor Borchard of Yale said that hundreds of cases have already arisen affecting the world which could be decided by this institution and the World Court has not touched a single one of them.

Now, Ladies and Gentlemen, doesn't that show the fallacy of the analogy made between the World Court and the Supreme Court of the United States when we consider that the World Court has not touched any of the vital problems in the world today after four years of existence. Therefore, since this World Court does not have real possibilities of development we believe that the United States should not enter such an organization.

SECOND AFFIRMATIVE REBUTTAL

Arthur E. Petersilge, Western Reserve

MR. CHAIRMAN, LADIES AND GENTLEMEN: The gentleman who preceded me stated that we of the Affirmative have based our argument on trivialities. Whether he is right or not, that is at least better than basing it on inconsistencies, which is what the gentlemen of the Negative have done. One of the gentlemen told us that the United States would get into the League if we joined the World Court. Another denied that we would necessarily join the League. The third speaker got up and said "We don't argue against the League of Nations." Yet the second speaker had just said, "The World Court is dangerous because there is a connection with the League of Nations." Now if they are not opposed to the League of Nations, if the League is not dangerous, why should the second speaker state that the World Court is dangerous because it is connected with the League of Nations? And a little later in his speech, the third speaker said, "Europe wants to get us into the League of Nations by the back door." Evidently he was again worried about the League of Nations, afraid lest we be forced in—yet, just a few minutes before, he had denied that he was opposed to the League.

The second speaker said, "We should not join the Court because we repudiated the League; whether right or wrong doesn't concern us." On the contrary, that concerns us very vitally, because if the United States was wrong in repudiating the League of Nations, then obviously the gentleman's objection to entering the Court disappears.

And now where have the gentlemen of the Negative taken their stand? At least two-thirds of the second speech and one-half of the third was about the League of Nations. As I have shown, they have argued on both sides, but since they spent more time warning us against the League than in denying that they opposed the League, we shall have to take it for granted that what they said the majority of the time was what they actually meant.

The gentlemen of the Negative have argued that there is a connection between the League and the Court, and they con-

clude that because such a connection exists the United States would be influenced by the League. Now we of the Affirmative are the last ones to deny that there is a connection between the League and the Court—but the thing which the gentlemen of the Negative failed to do was to show that this connection would affect the United States. We of the Affirmative agree that there is a connection between the League and the Court, but we deny that that connection would adversely affect the United States, and that is what I hope to prove.

What connections have they mentioned? The second speaker on the Negative said that the statute of the Court was revised by the League. Certainly, it was. But what of it? The statute is not hidden. It is printed in black and white. We can read it before joining the Court. We know exactly what we are going into. And when we are once in the Court and have signed the statute, that statute cannot be changed without our consent. That statute is a treaty; and, being a treaty, it cannot be amended unless every one of the signers thereto agrees to the change. Hence we need not fear that the League will put something over on us by changing the statute after we have joined the Court.

Next the gentlemen alleged that the League dominates the judges because it pays their salaries. The mere fact that the judges are paid by the League doesn't mean that the League dominates them in the least. The League of Nations cannot remove any of the judges. The only way that a judge can be removed is when his colleagues are of the unanimous opinion that he has in some way violated the high trust reposed in him. In the second place, according to Article 32 of the statute of the Court, the League cannot decrease a judge's salary while he is in office. The League cannot remove the judges. It cannot lower their salary. How then can it dominate the judges?

The gentleman has also said that the League can increase the number of judges and can fill vacancies in the Court. Suppose it can—what of that? The only way that the League could change a decision would be for the League to know ahead of time how the judges were going to vote. That would presuppose that a crooked League elected a crooked Court, and that a majority of the most noted international lawyers would stoop so low as to deliberately cast a crooked vote. Well, that is absurd.

The gentleman has feared that the Court will be forced to adopt a code of law as determined by the League. He has said that the World Court cannot develop international law because of Article 59, which says that the decisions of the Court have no binding force except between the parties and with respect to that particular case. But that doesn't mean that the Court cannot develop international law. That provision is the same as is found in any court of law. It simply means that the facts of the case as determined by the Court are not binding upon any third party—but the principle upon which the decision is based would be binding. The principle would stand; and the only way you can develop international law is by determining its principles. Article 59 is no bar to that.

Finally, the gentleman said that there is a dangerous connection because the League elects the judges. Well how could that affect us? As the third speaker on the Negative admitted, since the United States is not a member of the League we would have no voice in the election of judges. We wouldn't even have a representative in the League when it elected the judges, so how could that connection between the League and the Court be dangerous to us or mean that we would be forced into the League?

But don't think that because of that fact the United States would fail to be represented. After all, what do we care whether we have a judge on the Court when the United States is not before the Court? The important thing, the thing which everyone has wanted, is that we should have a judge on the bench when we have a case before the Court. And that can be secured without entering the League. According to Article 31 of the Court statute, when a nation comes before the Court, if no judge from that nation is on the bench, the nation in question has the right to appoint a judge of its own choice. Hence, if the United States joins the World Court without reservations, as we of the Affirmative have advocated, we not only would not have to be mixed up with the League in electing judges, but we would still have representation when we need it, whenever the United States is a party in a dispute before the Court.

We see, then, that although there are connections between the League and the Court, not one of them would adversely

affect the United States. We can join the World Court without reservations and without fearing the League.

THIRD NEGATIVE REBUTTAL

Waheeb Zarick, Indiana

Mr. Chairman, Ladies and Gentlemen: Now, we are representative people. We have representation in our government and we believe in our government. We are putting people into office in Washington—such men as Secretary Hughes—to look after our interests and we believe that they know more about the conditions of the World Court than we do. We put our case into their hands. And what does Secretary Hughes say?

Secretary Hughes, in asking that the United States go into the World Court made four reservations, showing that there is a connection between the World Court and the League of Nations. Why, if there isn't any danger to the United States, should the United States offer these reservations? These reservations were made to avoid participation on the part of the United States under the Covenant of the League of Nations.

Second, the United States should be permitted to have representation on an equal basis with other state members of the Council of the League of Nations in the election of judges. Third, the United States should pay a share of the expenses. Fourth, the statute should not be amended without the consent of the United States.

This shows conclusively that there must be a danger. We believe in our government. These men know more than we do. Why should we not believe in them? Should we not take it for granted that there is a danger when these reservations were made?

Secretary Hughes said, "There is, however, one fundamental objection to adhesion on the part of the United States for the protocol and acceptance of the statute in its present form. There is no dispersion for distinguishing the qualities of judges who have already been elected." So, you see, the United States could not be expected to give the support to the Permanent Court that it would to the Tribunal in the election of members. Would it be right for us to go into the World Court when we had no right in the election of judges? It would be against

the spirit of our Constitution. It would be against the spirit of our forefathers to go into an organization where we have no voice in the election of judges.

That answers, I believe the Affirmative's arguments.

The Affirmative said that a body of international law would be developed. Yet, I read what Professor Smith, Professor of Jurisprudence at Montreal University said regarding the matter. He knows more about law than I do. By Article 59 we cannot develop law. I read that before in my speech.

The Affirmative seem to be optimists. They want us to go into the World Court and change it. They say it doesn't do much now but it will later. Why should we go into an organization in which we have no word in the election of the judges and an organization that does not function effectively for world peace? Is it justice when France can go into the Ruhr territory in order to compel Germany to pay her reparation money? We do not believe that is justice. That certainly shows that the World Court is not functioning effectively. If it were, it would take hold of this matter.

We do not want to reform this World Court. We ought as idealistic American people to work for a World Court that would be effective in preventing wars, and that is the reason we have seen millions of men die in France for a principle. We ought to work for a principle and this principle ought to be for a real World Court, and a real World Court in our opinion is a World Court that works effectively in preventing war.

How has this World Court worked to prevent wars? The World Court allows wars! It is governed by laws that allow war. They cannot deny that. We believe that we should have a world court that would outlaw war. Do we allow criminals more power? Would we believe in a murderer? Do we not outlaw murder? We have no belief in a murderer and, therefore, we insist that the United States should not join the present World Court.

THIRD AFFIRMATIVE REBUTTAL

Jerome Curtis, Western Reserve

Mr. Chairman, Ladies and Gentlemen: The gentlemen of the Negative seem to have a special gift for making inconsistencies. They agree that we should not enter the Court with

the Harding Reservations and yet with the same breath they denounce the Affirmative for advocating just that. But what are these reservations of which the gentlemen make such a great to-do? The first is that we should assume no obligations under the Covenant of the League of Nations. But as we have already seen Mr. Hughes stated that "None of the signatory powers by cooperating in the establishment and maintenance of the Court make themselves parties to treaties or assume obligations under treaties between other powers." The Covenant is a treaty, we have not signed that treaty and therefore according to Mr. Hughes we would assume no obligation under the League, and the gentlemen stated that Mr. Hughes ought to know.

The second reservation is that of the election of judges. Very well. At most we could only expect one American on the Court when we should come before, and that is already provided for by the statute of the Court, which states that if one of the parties does not have a national on the bench, it shall have the right to place one there for the trial of its case. So without the reservation we can have an American judge.

Reservation number three. The United States should pay a fair share of the expenses. The statute of the Court says that when a state is not a member of the League and is a party to a dispute, the Court will fix the amount that state is to contribute to the costs of the Court. The gentlemen of the Negative have been arguing that the Court should fix the amount of expenses to be borne. In the case of the United States, the Court does this. So much for number three.

Here is the final one. No amendments shall be made to the statute of the Court without the consent of the United States. This is very simple. We have seen that the statute is a treaty. No treaty can be amended without the consent of all the signatories. We are a signatory, therefore, the statute cannot be amended without our consent. Mr. Hughes, in transmitting his message to the Senate, urged the Senate to take some additional action for he said that it would be necessary for the nations now signatories to consent to the reservations before they could become effective. Mr. Hughes himself realized that no change could be made without the consent of the signatories. The final analysis then is that all of the safeguards alleged to be contained in the reservations are already present in the statute of the Court.

The gentlemen of the Negative have been fit to bring forth at the very last moment a child of their own imagination. By so doing, they have assumed a burden of proof, but they have not even attempted to prove the value of their plan. The first plank in their plan is a court equally open to all nations. But Article 34 of the statute of the Permanent Court throws the Court open to all the states of the world. Then they have advocated the election of judges by the Hague Tribunal. In 1899 and 1907 the nations of the world absolutely refused to have the judges elected by the Hague. The gentlemen of the Negative have utterly failed to show that the nations will accept now what they refused then. And finally they have advocated a court with compulsory jurisdiction. But the gentlemen have failed to show how they are going to get this thru the traditional opposition of the Senate. Thus we see that the plan advanced by the Negative is entirely chimerical.

Now, let us see what we have in the Permanent Court. First, we have seen that the Court is permanent, and second, that it decides questions on the basis of justice. This has the advantage that many times nations which will absolutely refuse to arbitrate their cases will submit it to a court of justice, and the gentlemen have admitted that this Court is a court of justice.

The United States should enter this Court because it is the best means yet devised for securing international justice, and because it is in accord with our traditional American policy. Therefore, as the Court does decide on the basis of justice and as there is an advantage (and our State Department contends that there is an advantage) in so deciding, and as it is in accord with our traditional policy (and the gentlemen of the Negative have not denied that it is in accord with our traditional policy), is there any logical or sound reason why the United States should not support this Permanent Court of International Justice?

In short, by joining the Court the United States has absolutely nothing to lose, and there is the probability of much to be gained. As this plan is in accord with our ideals and traditions, we contend that the United States should join the Permanent Court of International Justice.

DEAN LEUTNER

Unlike most intercollegiate and interscholastic debates in which we have been accustomed to participate, where it has been the custom to have judgment rendered by a group of lay judges or where opinions have been rendered by a ballot from the audience, in this series of debates judgment is rendered by a professional critic, judgment made by a man whose business it is to train young men in debating. This evening the judgment is to be rendered on the basis of care which the debaters have shown in the organization of their material and the skill with which it is presented.

The ballot was collected from Professor Wichelns which read as follows:

"In my opinion, without reference to my own opinion on the merits of the question, the most effective debating has been done by the Affirmative."

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CHAPTER IX

RECOGNITION OF THE PRESENT RUSSIAN GOVERNMENT

CAMBRIDGE UNION SOCIETY OF CAMBRIDGE UNIVERSITY

versus

BATES COLLEGE

RESOLVED: *That all countries should recognize the present government of Russia.*

This is a stenographic report of the debate between the representatives of the Cambridge Union Society of Cambridge University, England, and those of Bates College, Lewiston, Maine, which took place in the City Hall at Lewiston, September 23, 1924. On the Affirmative team were two men from Cambridge and one man from Bates; the Negative side was upheld by two men from Bates and one from Cambridge. The presiding officer was Honorable Carroll L. Beedy, Representative in Congress from the First District of Maine. Decision was made by the audience, each member voting in accordance with his own views on the question; one hundred and fifty votes were received for the Affirmative and eight hundred for the Negative side of the question. The report of this debate was secured thru the courtesy of Professor A. C. Baird of Bates College, and Mr. Harry W. Rowe, the Bursar.

BRIEF

RECOGNITION OF THE PRESENT RUSSIAN GOVERNMENT

AFFIRMATIVE

INTRODUCTION:

A. This question is an important one.
   1. It is one on which there is great controversy.

B. The fact that recognition of Russia by other governments may have failed does not settle the question.
   1. If recognition has failed, it is because agreements have been negotiated by individual governments and not collectively by all nations.
   2. It is a fallacy to say that no good has come of recognition.
      a. If there were no recognition there would be no possibility of good in the future.

I. Refusal to recognize Russia is a denial of the unity of civilization.

A. Russia is a country of vast wealth, immense potentiality and unlimited possibilities.
   1. Such a country cannot be ignored.

B. International law is clear on this question.
   1. Obedience to the rules of international law was never so general as at the present time.
   2. Disregard of its precepts means another war, and in another war, all civilization would be destroyed.
   3. A stable government must be recognized, regardless of the form of that government.
      a. The form of government is a matter for the people of that country alone.
      b. The Soviet government has been stable since 1918, and so far as can be foreseen, will continue to be so.

C. By recognition, Russia will be made safe, and brought back into proper relations with the rest of the world.

II. For moral reasons, the present government of Russia should be recognized.

A. It is not right that a country that has produced such writers as Tolstoy and Pushkin should be cast into eternal oblivion.

1. The tyranny of the Romanoffs followed by Bolshevism has crushed the natural bent of the Russian people.
2. If, by recognition, Russia can be restored as a free nation, we can look forward to a period of unparalleled development in art and literature.
3. We are already in great debt to the Russian people.
   a. The valor of the Russian soldiery in the war and their courage in keeping barbarism at bay, is unforgettable.

III. Russia is entitled to recognition.

A. She does fulfil her international obligations.

1. The Russian government, as such, is not now engaged in the spreading of propaganda in America, or in any other country.
   a. Much of the information given out by the American press is not founded on facts.
   b. Revolutionary tendencies in America are due to Americans and are laid at the door of Soviet Russia in spite of the fact that the evils complained of were in existence before the Soviet was ever heard of.
   c. Much of the information is based on propaganda material placed with the Department of Justice by an agent who had to smuggle it out of Russia.
2. Other countries, where Russian officials have been expelled for spreading revolutionary propaganda, have recognized Russia, either *de facto,* or *de jure.*
   a. If they are satisfied with their relations with Russia, why should others complain?

3. When Russia did spread revolutionary propaganda she was justified.
   a. All the civilized world maintained a blockade against her.
   b. All the civilized world tried to force such a government on the Russian people as they saw fit.

B. Russia has recognized her debts.
   1. Since 1919 the Russian government has been willing to recognize her just debts and pay them in full.
      a. She does not see, however, why she should be asked to pay every claim on the face of it, while, on the other hand, she is given no assurance that her claims will be recognized.
   2. Every time she offered to pay her debts, allied diplomacy refused to negotiate with her.
      a. She was justified in making her demands for a loan.
   3. Her claims for recognition of obligations by other nations are just.
      a. Other nations, without declaring war, invaded Russia with armed forces, blockaded her on every side, and published quantities of propaganda against her.
      b. In demanding indemnity, she has a precedent.
         (1) Her claims are directly parallel to the claims of America in the Alabama case where the United States received $15,500,000 in indemnity from Great Britain.

C. To refuse to recognize Russia will have a bad psychological result on her people, and may lay the foundation for another war.

IV. We should grant recognition to Russia for the sake of the peace of the world.
   A. Our experience with the treatment meted out to Germany by the Peace Treaty, shows that that is not the way to bring peace.
      1. Nor will it be the way to bring peace to Russia.
   B. To bring peace, we must begin with indemnity and recognition.

C. The same feeling of loathing for what has been done in Russia that prompts us to leave her an outcast should prompt us to grant her recognition, to start her on the path that may be open to her.

D. Bolshevism cannot last and recognition will hasten its fall.

1. Only a very small proportion of Russia's population is, or has ever been, communistic.
2. The Russian is not only not communistic, but he desires only to live in peace.
3. The spirit of the Russian people is entirely opposed to that of the Bolshevist party.
   a. The latter is empty form and no soul—the former is all soul and no formula.
4. The greatest enemy to Bolshevism is a full stomach.
   a. The Bolshevists realize this and keep trade in a state of stagnation.
   b. If we can set trade again on its feet, the government will soon be out of debt.
      (1) Incidentally, that will lead to the government's downfall.

NEGATIVE

I. It is not for the several reasons advanced by the Affirmative, that the Negative is not in favor of recognizing the present Russian government.

A. The Negative are not unmindful of the sufferings of the Russian people, but it is necessary, in arguing this policy of recognition to adopt the policy which, in the long run, will be best for Russia and for the world, regardless of our sympathies.

1. The Negative believe that Russia is not yet ready for recognition.

B. In discussing the matter of recognition, the Negative is not concerned with the internal affairs of Russia.

1. Russia's internal affairs are her own business.

C. Recognition is not a matter of stability.

1. It is purely a matter of international obligations.

II. For a country to be recognized, there are three international obligations which it must fulfil.

A. It must promise not to interfere with the established governments of other countries.

B. It must respect the rights of property of an alien citizen within its boundaries.

C. It must recognize its just and legal debts.

III. The Soviet government is unwilling to fulfil its international obligations.

A. It has not ceased to interfere with the established governments of other nations.

1. Altho the Soviet government claims to have ceased its revolutionary propaganda in other countries three years ago, it protects and has a common leadership with the Third Internationale which is still spreading this propaganda.

2. Evidences of the activities of the Third Internationale and the Soviet government can be found everywhere.

a. Secretary Colby of President Wilson's cabinet was opposed to recognition of Russia because of this, long before Mr. Hughes even became Secretary of State.

b. The United States Senate and the United Mine Workers have issued reports showing the efforts that have been made to introduce Bolshevism into the United States.

c. After Great Britain had established a trade agreement with Russia, she was obliged to send an ultimatum to Russia that propaganda must cease.

d. Russia's trade agreements with Finland, Turkey, Sweden, Switzerland and Czecho-Slovakia have been violated in similar fashion.

3. It is evidently a cardinal feature of Bolshevist rule to make trade treaties and so violate them.

a. It is part of their religion to attack other governments and replace all established governments with Bolshevist rule.

B. Recognition of the Soviet government is morally pernicious.
   1. The Bolshevists wish to set up a new code of national law which would be a direct negation of the rights of nationals.

C. Recognition of the Soviet government would be practically futile.
   1. There is no use for recognition *de jure* unless it can be recognition *de facto*.
      a. There can be no *de facto* recognition where Russia will not live up to her agreements.
         (1) She did not respect the rights of British property in Russia.
         (2) Her delegates promise to conduct no future propaganda against Britain, and as soon as they return to Moscow, more offensive propaganda appears.
         (3) Italy, Poland and other buffer states have suffered more than Great Britain in this respect.

D. Recognition would be internationally dangerous.
   1. The very basis of Communism is that the doctrines of Carl Marx should be introduced everywhere into the civilized world.

E. Russia does not recognize the property rights of citizens of other countries.
   1. Shortly after the Soviet government came into power, a decree was issued abolishing the property rights of all other countries and its citizens.
   2. That policy is still in force.
   3. A new economic policy is now in effect whereby all rights of private property have been weeded out in Russia.

F. Russia has not recognized her international debts.
   1. The Soviet government cancelled the loan made by the United States in 1917 to the revolutionary Russian government.
   2. The conditions made by Russia, before paying her debts were impossible.

a. Political recognition must be made agreeable to the Soviet, regardless of other considerations.
b. An international loan must be made to Russia, the conditions to be stipulated by herself.
c. There must be payment of counter claims to the Soviet.
   (1) These in 1922 amounted to $19,000,000,000.
   (2) This payment was to decrease the sum of the interallied war debt.

RECOGNITION OF THE PRESENT RUSSIAN GOVERNMENT

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PRESIDING OFFICER
Honorable Carroll L. Beedy

LADIES AND GENTLEMEN: It is indeed a privilege to be permitted to preside at this debate, and to take it upon myself, if I may, in behalf of this audience and the people of which this audience is a part, to extend to these young gentlemen from England the most hearty and cordial welcome of America.

There is hardly a thinking man or woman today who does not harbor the hope of a better understanding, not only between individuals, but between nations. We are continually reaching out and groping for some element by which that better understanding may be furthered; but I believe one of the most helpful and practical ways of promoting peace through understanding is through just such contests as these. The day will never come when we may have peace between nations until the day has come when we may have peace between individuals, and we can never live happily together as individuals until we understand each other better.

Aside from the tremendous return which comes to these young men who participate in these intellectual contests,—individual returns,—there is bound to come a larger benefit to the great people they represent. These young men here in America are typical of the thinking man and woman of the future in this country, and these young men from Cambridge are typical of the thinking young man of England. When they shall have journeyed across these states, and shall have exchanged opinions with numerous of our young men and young women, they

will certainly have entered into a better understanding with what is typical of America.

The day has gone, apparently, when we think of debates as a contest merely where, as the result of which, we award the trophy to the victor. This seems now to have become an occasion whereby information may be disseminated. When we first approached England, we had our own ideas with reference to debates. England accepted our invitation, came here through her representatives from Oxford, our boys, as you know, went there, and then again Oxford played the return engagement. Gradually we find that our ideas have broken down, and, as usual when we touch hands with England, she has her way, and now tonight, not only is the contest to be decided by the audience, but you see here a novel arrangement. On the one hand you have two Bates boys associated with one of the young gentlemen from Cambridge, and on the other two of the Cambridge boys associated with one young man from Bates.

Some of us thought, when Oxford came here first and we debated with her, that it would indeed be a fine thing if we could have Cambridge here with us, and now our hopes have been realized. Just how Cambridge is to differ from Oxford you will now have demonstrated to you. Perhaps as a forerunner of what may be found to be the difference, I might quote to you what was said to me by one of the young gentlemen from Cambridge this evening respecting the difference between Cambridge men and Oxford men. He said, "When an Oxford man walks down the street, he walks down as though he owned it, and when a Cambridge man walks down the street, he walks down as though he didn't care a damn who owned it."

That these young men from Cambridge have the courage which characterizes the Cambridge man is evidenced by the fact that they have been bold enough to accept the challenge, and will enter the lists and contest the honors of debate with the fair young women of Mount Holyoke and Vassar. We wish them a happy journey across our own country, and we wish them much pleasure in their debating contests in which they are to participate in Canada. We trust they may feel repaid for having come to us, and we wish ourselves the good fortune of a future visit and participation in debate with them at their university in Cambridge.

Dispensing with further remarks as presiding officer, for these young men are to take a midnight train for Halifax, I will simply say that the question for debate is, as it reads,

"Resolved: That all countries should recognize the present government of Russia," the Affirmative, as you perceive, participated in or substantiated and upheld by two gentlemen from Cambridge, Mr. Marshall and Mr. Sparrow, with Mr. Davis, a Bates boy, and the Negative upheld by two of the Bates men, Mr. Googins and Mr. Canham, with one young gentleman from Cambridge, Mr. Butler. Each of the speakers will be allowed twenty minutes; there will be no rebuttal.

As the first speaker on the Affirmative, I take great pleasure in introducing Mr. J. W. G. Sparrow of Trinity College, Cambridge.

FIRST AFFIRMATIVE

J. W. G. Sparrow, Trinity College, Cambridge

Mr. Chairman, Ladies and Gentlemen: I want, first of all, to express the very real gratitude which we who come from Cambridge feel toward President Gray and Bates College for the wonderful hospitality they have extended to us, a hospitality which has surpassed even our most optimistic expectations; and, Ladies and Gentlemen, I should like to thank you for the honor you do us in coming here tonight to hear what we have got to say, or, as I shrewdly suspect, to take a look at us.

I think that international debates do bear good fruit. I suppose I may say a word here tonight to some extent as the ambassador of British Youth; and may I tell you that we will go back to England with a message that will be a tribute to the capacity, the courage and the culture of the people of this great country—and I cannot help thinking that that will do some good.

Ladies and Gentlemen, I beg to ask for your indulgence. I was told just as I came in here that no Englishman should be afraid, but that is not true—I am as nervous as can be. There is only one thing that can possibly be worse, and that is the prospect that the chairman has mentioned of talking to no less than two thousand young women at a place called Vassar.

Now, Sir, "That all countries should recognize the present

government of Russia!"—Ladies and Gentlemen, that is a controversial topic, and it is a supremely important topic, and I can well understand anyone being either for that resolution or against it. I think it is a topic which ought to be approached with caution and moderation. Well, now, I do not know exactly what the other side may say, but I have a sort of knowledge of the strange workings of the mind of my friend over there (indicating Mr. Butler), and I am going to make two guesses. First of all they will say, "But there has been recognition of Russia by certain countries, and recognition alone is no good at all. The countries that have recognized Russia have tried to negotiate trade agreements, and they have failed." Of course that is not quite true, but it will pass in debate; and if they succeed in convincing you that these things have failed, that is not the point at issue at all. There are two fallacies, I submit. The first is that these agreements failed largely because they have been negotiated by individual nations, and not collectively by all nations, which this resolution suggests. The second fallacy is this: that it is all very well to say that no good has come of recognition; but the point is that if there were no recognition, there would be no possibility of good in the future.

Now there is one other guess I am going to make, and I believe it is going to come true. We who support this resolution tonight will find ourselves fighting those fiends of controversy—prejudice, dogmatism and bigotry; but I rather think as I look around tonight that these demons of debate are going to be vanquished, and by your verdict more moderate and more mature counsel will prevail.

Well, now, Ladies and Gentlemen, what is Russia? In size it is a continent. It is as big as the United States. It is a country of vast wealth—natural wealth—commercial wealth—and a country of immense potentiality and of absolutely unlimited possibilities. That is Russia! And the first question which occurs to me is this: Can such a country be ignored? I look at it in this way: You and I, the individual citizens of England and America, must always be acutely conscious of Russia, her prosperity or her distress; and yet we are told—these gentlemen tell us—that when the governments which are supposed to represent us, the individual citizens—when the governments are asked "What about Russia," no satisfactory an-

swer is vouchsafed. But it is fantastic, it is grotesque to think that one can cast a continent into oblivion. So my first point is this: Refusal to recognize Russia is a denial of the unity of civilization, and that is exactly what I think your President Wilson realized; and it seems to me that the unity of civilization is the most tremendous truth of the twentieth century.

I pass on to international law. Now international law speaks quite clearly on this question. What does it say? I suppose there never was a time in the whole history of nations when obedience to the rules of international law was so general as at present. Disregard of its precepts means, in my opinion—and I think I may say in the opinion of these gentlemen—another war, another convulsion, another chaos, in which civilization as we know it today would be smashed beyond all recognition.

Again! If you have a stable government, you must recognize it, and it matters not what the form of that government is. The form of government is a matter for the people of that country alone. That is a very wise rule, and it has been made in order to insure peace among nations, and that no nation shall be kept out of it.

Now has the Soviet government been stable? While I hold no brief for the present rulers of Russia, I cannot gainsay the stability of the Russian government. It has been ruling since 1918, and, so far as we can see, will continue to rule. So the message of international law is this: You must overcome your natural repulsion at the methods of Bolshevism, and you must recognize the government of Russia for the sake of security and world peace. It is the big thing to do, the generous thing to do, and I believe the wise thing to do. Why is it the wise thing to do? Because it is by recognition, not by condemnation, however justly, that you will make Russia safe, that you will help her distraught people, and bring her back into noble relations with the civilized world.

The real issue tonight appears to me to be a moral one. Are we to do what we believe to be right? Now Ladies and Gentlemen, there are also considerations which are none the less to be considered because they make no spectacular appeal; but I cannot help thinking that here in Lewiston they should carry very great weight. I suppose that in a college city such as this, lovers of literature abound, and it seems to me to be one of the strange anomalies of life that we should be asked to

cast into eternal oblivion a country which has produced such men as the poet, Pushkin, and the writer, Tolstoy. You may say that Russian literature has no Dante, no Shakespeare. That is so. Why is it? Because the tyranny of the Romanoffs, followed by Bolshevism, has crushed the natural bent of the Russian people. This is my point. If, by our wise action tonight, we bring Russia back a free nation and unfettered, we may reasonably look forward to a period of unparalleled development in art and literature; and I think this is an argument which should carry weight, not only in the councils of the world, but right here in Lewiston.

As an Englishman, I can never forget the valor of the Russian soldiery during the war and their dauntless courage which kept barbarism at bay. The truth is that we are tremendously in debt to the Russian people, and yet we are told now that this same Russia is a menace to the world and a nation with which we should have nothing to do. I submit that that is foolish; it is false. All these unforgetable and unforgotten things appear to me to be relevant when we are deciding whether or not we are going to recognize the Russian government, and, what is far more important, through it, the Russian people.

I am not going to say anything more because these gentlemen are more qualified to speak on the subject than I am; but I am going to ask you tonight to carry this motion, not by an insignificant and unnoticeable majority, but to carry it by a majority so emphatic that a message will go forth from this place to those outside,—a message saying that you here in Lewiston in the realm of foreign relations are not moved by narrow and unworthy motives, but are governed by liberal and lofty ideals; and I feel, Ladies and Gentlemen, that I am justified in urging you to take what I deem to be the larger view. The more I study these questions, the more I believe that when, and only when, the foreign policy of every state is inspired by a spirit of generous justice, can we hope to secure for all time, and between all nations, immortal, indestructible honor.

FIRST NEGATIVE

F. T. Googins, Bates

Ladies and Gentlemen: It is a great privilege, as a representative of Bates College, to welcome members of Cambridge

University upon their first visit to this country. Twice it has been our privilege to have these debates with Oxford, and it is no small added pleasure to establish relations with her sister British university. In this welcome I know that I am expressing the sentiments of the citizens of Lewiston and Auburn for they have always shown a great deal of interest in intercollegiate and international debate. In broader perspective, I extend to you, Gentlemen, of the visiting team, the welcome of America. An event such as this is of great significance. It promotes interest in debate and discussion. Such an event as this affords an opportunity to discuss a question of vital importance today. But of greater significance than this, Gentlemen, it is but another of the ties that bind together your country and mine. We may differ on the issues of this debate, but in the final analysis there can be nothing but a sense of unity between England and America, and the strengthening of this unity between England and America I believe to be the task of every Englishman and of every American.

Now regardless of the point of view that it is necessary for the Negative team to adopt this evening, I would not have you think for a minute, Ladies and Gentlemen, that we are not in sympathy with the Russian people. We are not unmindful of those long years of bondage under the Czar's regimé; we are not unmindful of the suffering of the Russian peasant because of the revolution which is responsible for the internal situation in Russia today. We are not unmindful of the suffering because of famine and pestilence. It is not that we wish to reject Russia. We are not advocating a policy of opposing recognition because we wish to reject the Russian people; but there is more to recognition than the mere consideration of our sympathies, for it is necessary in arguing this matter of recognition that we adopt the policy which, in the long run, will be best for Russia and best for the world.

Now I wish to state this fact, Gentlemen and Ladies, that any statements which we of the Negative team may make this evening are not made for the purpose of argument, because we like to stand here and argue, but they are made from the bottom of our hearts and because, after investigation of this situation, we sincerely believe that the Soviet government, as the representative government of Russia, is not yet ready for recognition.

Without doubt many of you will wonder why the members of the Negative team do not paint for you the usual picture of the terrible internal conditions in Russia. I wish to state on this point that in discussing the matter of recognition, we are not concerned with the internal affairs of Russia. Recognition has nothing to do with the type of government which Russia may desire to have, with any attitude toward religion which she may wish to adopt, with any economic policy which she may wish to establish. That is Russia's business, and the matter of recognition does not concern itself with internal conditions. It is purely a matter of external obligation.

The gentleman who has just spoken to you from England has told you of the Russian government and of its stability. Recognition is not a matter of stability, I am sorry to say. The Russian government is stable,—at least it has been in existence now for six or seven years,—but recognition is purely a matter of international obligations, and so we must concern ourselves this evening in discussing the international obligations of Russia. Now the issue in this debate is, Can Russia fulfil her international obligations? For a country to be recognized there are three international obligations which it must fulfil: First, it must promise not to interfere with the established governments of other countries. Such a demand is very reasonable. It must respect the rights of property of an alien citizen within its country, and, third, it must recognize its just and legal debts. On the fulfilment of these three obligations recognition depends.

The gentleman who preceded me made the point that a refusal to recognize Russia is a denial of the unity of civilization. It is not a rejection of the Russian government which we are arguing against; it is not a rejection of the great mass of their literature which we are arguing against; but it is the fact that the Soviet government is yet unwilling to fulfil its three international obligations.

Now you will remember that the first pre-requisite I stated was that a government must promise not to interfere with the established governments of other nations. It is this point which I wish to discuss briefly in the remainder of my speech. It is to be recognized at the beginning that, until three years ago, the officials of Soviet Russia openly admitted that they had actively engaged in spreading Red propaganda in foreign coun-

tries. Now it has been argued by some Russian apologists ever since that time that they have changed their policy, and that they no longer carry on this spreading of revolutionary doctrine in other countries, but that it is an organization called the Third Internationale which is to be credited with spreading this Red propaganda. Then comes the question, What is the relationship between the Third Internationale and the Soviet government? It may be argued by some speaker who follows me that there is a great difference between these two organizations. Let us consider the two organizations! The Third Internationale is the international head of all communist parties; its home is at Moscow and it is protected by the Soviet government. Now between these two bodies there exists an interlocking membership and an interlocking directorate. The leaders of one organization are the leaders of the other. For example, Lenin, who as you remember was at the head of the Soviet government, was at the same time an official of the Third Internationale. Zenovieff, who is the president of the Internationale, is also an official of the Soviet government at Moscow; but of still greater significance is the fact that the activities of the Third Internationale are financed by the Soviet government. Now in view of the common leadership which exists between these two organizations, in view of their common aims and policies, in view of the fact that the leader of the Third Internationale admits that they are the root and foundation of one, and because the activities of the Third Internationale are financed by the Soviet government, these two organizations are Siamese twins for all practical purposes; they are interchangeable; and as long as any government sympathizes with and supports an organization whose principal aim is to destroy all forms of capitalistic government, and put in their place the rules of the Communist, it violates this first pre-requisite for recognition; and as long as the Soviet officials maintain their policy of supporting the Third Internationale, they are violating these three pre-requisites. Upon these grounds, in spite of our sympathy, we feel it necessary to withhold recognition.

You must remember that if we recognize Soviet Russia today, without demanding the fulfilment of their obligations, it will mean that representatives of this government will sit around the Peace Table, and other tables where treaties are

made by the family of nations, with representatives of the government which supports and sympathizes with an organization whose aim is to destroy the very governments which those men at the Peace Table represent, and it will lead to nothing but disappointment, and possibly war. This is why we must demand that this first pre-requisite be fulfilled upon the part of Russia.

It is not necessary to show that Russia sympathizes with an organization which means to overthrow government. The mere fact that it is connected with an organization of this purport is enough; but everywhere, if you will examine, you will find evidences of the activities of the Third Internationale and the Soviet government. This opposition to recognition of Soviet Russia did not originate in the present administration of the United States government, but Secretary Colby of President Wilson's cabinet was opposed to recognition of Russia on the ground that she was spreading revolutionary doctrine in this country long before Mr. Hughes even became Secretary of State.

There is a volume, called Senate Document 206, which published the findings of a committee appointed in 1919 to investigate the situation. Last summer and last fall, an organization called the United Mine Workers made an investigation. Now this organization consists of humble coal miners of all nationalities who have been especially sympathetic to the communistic cause, and this report has been considered of such importance that it has been frequently referred to by many of our prominent lawyers and almost every congressman. Even more significant is the fact that this report of the United Mine Workers has never once been denied by the officials of the Soviet government. According to these findings, three times in three years the Bolshevist leaders attempted armed insurrection in the United States,—in the steel strike of 1919, in the switchmen's strike of 1920, and in the coal and railroad strike of 1922. It was also disclosed that over a million dollars had been raised in this country under the guise of Russian famine relief, and that this money had been placed in the hands of Communist leaders who were to use this money to overthrow this form of capitalistic government.

If I had time, I could stand on this platform for the next hour and recite instances from this report of the insidious ac-

tivities of the Third Internationale and the Soviet government in this country. Since, however, we are discussing recognition of Russia by all countries, I would like very much to consider, or to take a sort of quick glance at the other countries, and show you that the Soviet government does not confine its policy of spreading revolutionary doctrine to the United States alone. On March 8, 1921, as without doubt you gentlemen will remember, Great Britain formed a trade agreement with the Soviet officials, and in the very same year the representative of England, Lord Curzon, His Majesty's Secretary of Foreign Affairs, was forced to send a protest to the Soviet officials at Moscow because the terms of that agreement had been violated in that they had promised in that treaty to abstain from spreading revolutionary doctrine in Russia; and only last year the situation between Russia and Great Britain reached such a point that it was necessary for the English officials to send an ultimatum to Moscow, saying that unless the Soviet officials promised within the next ten days to abstain from spreading propaganda in Afghanistan, Persia and India, all relationship between these two countries would cease.

Note the position which Tchitcherin holds in the Soviet government! Allow me to give you an illustration of his attitude. On February 18, 1922, he issued a proclamation, signed by himself, addressed to the Workers of the Far East, denouncing hypocritical Americanism, and declaring "a life and death struggle against all American, Japanese, French, English, and all other world powers. This is the attitude of the officials of the government whom we are asked to recognize, of the government that will not promise to refrain from spreading propaganda in other countries.

Within the last three years, Finland, Turkey, Sweden, Switzerland, Czecho-Slovakia, and many other countries which I will not take time to mention, have all had trade agreements with Russia, and in each of these cases the terms of the treaties have been violated by the Soviet government, for in those treaties they promised to abstain from spreading revolutionary propoganda in those countries, and in each case they violated the terms of the treaty.

Now what does all this cumulative evidence point out? In the first place that it is a cardinal feature, that it is a part of the Soviet religion, to attack other governments and replace all

established governments with their Bolshevist and Communistic rule.

Will you please keep in mind what I have already said, that we do not care if Russia desires a Communistic government; but we heartily object if she works so that the United States, or any other nation that has an established government, shall throw it over and adopt another.

All this cumulative evidence also points out that the word of the Soviet officials mean nothing to them; that they are willing to make treaties and violate them. I am not saying this against the whole Russian people or the great mass of Russian people; but we must object to the acts of a few Russian officials because they represent the Russian government today. It has been proved that they are unwilling to keep their treaties. So long as any government is unwilling to keep its treaties with other countries, it violates the first pre-requisite. There is no adequate reason for saying that Russia merits recognition.

The Negative team, Ladies and Gentlemen, is not afraid of the Bolshevist government. We are not afraid that the red flag will float over Washington tomorrow or ever; but so long as the Soviet government maintains its present attitude, and refuses to keep this first pre-requisite, we say that she does not merit recognition.

Ladies and Gentlemen, as I have said before, we are not out of sympathy with the Russian people. The American Red Cross, the American Russian Relief Association, and a lot of other humanitarian associations, can do in the future as they have done in the past; they can send their aid, their support and their money to help the proletariat of Russia. We can do everything for that great mass of Russian people, but at the same time we must wait until Russia realizes that recognition is a matter of honor and that a country to be recognized must be willing to stand behind its treaties. To be recognized, it cannot break its word whenever it sees fit. We must wait until the time when the Russian government realizes this thing and is willing to promise that it will not violate the first pre-requisite to recognition. We can then grant Russia recognition and admit her into the family of nations. As I have said before, all civilized nations today are trying to gain a greater world peace, and I am sorry to say that we cannot have a greater world peace so long as we have in our circle representatives who violate international

law, and who break their treaties. Consequently, it is the contention of the Negative team that at the present time the Soviet government does not merit recognition.

SECOND AFFIRMATIVE

John P. Davis, Bates

Mr. Chairman, Ladies and Gentlemen: You do not know how great a privilege I count it to have as my colleagues the gentlemen from Cambridge University. I am very glad tonight to represent Bates College from this side of the platform, and I am glad to speak to you as an American citizen who sincerely believes that the only road to peace in the world, the only road to economic prosperity in Europe, lies through the recognition of the present government of Russia by all the civilized countries of the world. I am very glad, also, to meet the gentleman who has preceded me upon the very issue that he has presented, does Russia fulfil her international obligations?

Let us discuss for a moment, these international obligations. Let us discuss this terrible, vicious, vile, cruel, Red propaganda, this propaganda which is as red as red can be. How often have you been told of armed insurrection, of attempts to place the red flag over the White House! How often has it been remarked that the long-bearded Bolshevists are going to swoop down upon the people of Lewiston and Auburn and crush them under their communistic feet! To this type of remark, Ladies and Gentlemen, the long-suffering American people have been continually exposed. Seriously, however, we may be definitely assured that the Russian government, as such, is not now engaged in the spreading of propaganda in America or any other country.

If you will remember, the gentleman pointed out that the United Mine Workers, an organization of humble miners, had issued a pamphlet which declared that the Communists were spreading propaganda here, there and everywhere. In the first place, what about the United Mine Workers being a crowd of humble miners when Mr. Samuel Gompers and Mr. Lewis are both millionaires! And they are the ones who are responsible for this pamphlet and these documents. But the American press, taking its cue from this pamphlet issued by the United

Mine Workers, will declare it to be the direct result and work of the Communists of Moscow.

Then the next item that appeared in the American press was that the strikes at Herrin, Illinois, were the direct result and work of the Ku Klux Klan.

Many of the persons or organizations accused of fomenting revolution in America are Americans. The outbreak of every revolutionary tendency in America is laid at the door of Soviet Russia, despite the fact that many of these evils were in existence long before the Soviet was ever heard of.

Now I am amazed that the gentlemen who have had recourse to every document that the Senate has put out should fail to mention three documents which seem to me of the very highest importance. Let us discuss these three documents just a bit! The first of these was an article published in a Russian newspaper the Jzrestia, on November 7, 1922, which declared that there was a material connection between the Third Internationale and the Soviet government. This article has been denied as translated by the editor of this paper. Perhaps you are wondering what an article published in a Russian newspaper has to do with the spreading of propaganda in America. Here is the answer: The connection between the Third Internationale and the Soviet government being supposedly established, a second article followed, this time a letter purporting to come from Zenovieff. This article declares that the American proletariat will soon rise as did the Russian proletariat. Now this article which has caused so many of us so much loss of sleep, has also been denied. This contained instructions to the Communists of America to organize in groups of ten and to shoot in groups of three, so that the red flag may soon wave over the White House. Now Ladies and Gentlemen, let me assure you that you need not be worried about this. Those of us who have visited Washington recently have looked in vain for the groups of ten and the groups of three, and we have failed to see any red flag flying over the White House. Now these communistic instructions are said to have emanated from the Department of Justice where they were placed by an agent who smuggled them out of Russia. Strange, is it not, that in a country like Russia, propaganda has to be smuggled out? Now, Ladies and Gentlemen, upon the face of it, are these three pieces of uncorroborated evidence sufficient reason to deny to one hundred and thirty million people recognition? I appeal to you to cast aside your

convictions which may have been established in regard to Russia as the result of newspaper reading, and to view with me a Russia freed from four hundred years of oppression, a Russia free and regenerated and with a future before it.

I want to discuss rather briefly propaganda in these other foreign countries. The gentleman has pointed out that in such countries as Finland, Sweden, Turkey, Switzerland, Czecho-Slovakia, and others, Russian officials have been expelled because of spreading revolutionary propaganda. Now I submit to you the fact that in every one of the countries which I have mentioned Russia has either *de facto* or *de jure* recognition. If these countries are satisfied with their relations, why in the world should anyone else be disgruntled? That is the real answer to the questions which the gentleman brings forward about the spreading of propaganda. Why does the gentleman go so far afield when he could have discussed right here these three pieces of propaganda which I have just mentioned. And, what is more, the gentleman has failed to point out where the Russian government, as such, has been guilty of spreading any propaganda.

No one is so foolish as to think that at some times the Russian government has not spread propaganda. But when she did so she was justified. All the civilized world maintained a blockade against her, all the civilized world tried to force the Russian people to have such a government as they saw fit. Congressman Frear stated in Congress in 1919 that over 95 per cent of the literature that was published as propaganda by the Russian government was published in Germany, Austria and Hungary and for the reason that those countries were at war with Russia and deserved to be treated as enemies. And it has been pointed out that of the other 5 per cent, some of it went to spread propaganda in England that the British soldiers had been shedding the blood of the Russian people for a year and a half.

Now let us pass on to the next pre-requisite for recognition—the recognition of just and legal debts. I maintain, Ladies and Gentlemen, that Russia has recognized her debts. Now the gentlemen probably will tell you that Russia issued a decree in 1918, January, 1918, in which she said unconditionally, "we cancel all debts," that is to say, they cancelled the debts owing to private citizens within Russia by confiscation of private property, and they cancelled all debts owing to foreign countries. But since 1919 the Russian government has maintained a consistent

policy in regard to her debts. She has been willing to recognize them, to pay them in full. The Russian government, however, failed to see why they should be asked to pay every claim against them on the face of it, while, on the other hand, they are given no assurance whatsoever that their claims will receive any consideration. Ordinarily, what is sauce for the goose makes, likewise, admirable gravy for the gander.

On February 4, 1919, the Russian government declared itself ready at once to negotiate with the world. Through their Foreign Minister they made it plain that they were ready to rescind any type of propaganda which they were spreading; that they were ready to recognize their loans and to guarantee the payment of interest on future loans that they might make by the exportation of raw material; to grant concessions in forests, mines and in other of their resources. Russia was willing to fulfil every pre-requisite for recognition, but allied diplomacy refused to negotiate with her. Subsequently, the Russian government took the same stand in 1922. Again in early 1923 she proposed a scheme for the cancellation of all her debts. The gentlemen who follow me will no doubt point out to you that every time that Russia ever did pay her debts, she added an "if" clause. But, Ladies and Gentlemen, Russia was justified in demanding the things she did demand. First, Russia called for a loan. She needed a loan. Why? Because if she was ever going to pay her debts, it would only be through the rapid rehabilitation of her long neglected industries, and for such rehabilitation she needed a loan.

In 1923, the Minister of Foreign Affairs issued a statement in which he said that the Soviet government was willing to consider separately the American private claims in Russia, and to discuss each—such as the Westinghouse, National Harvester and the National City Bank—on its own merits; and, speaking at the London Congress a few months ago, the Soviet representative stated that the Soviet government is willing to submit these questions to detailed discussion. Subsequently, the Italian member said substantially the same thing.

Russia has maintained a consistent policy in regard to her debts. She has been willing to recognize her debts if given a chance to do so. If Russia is to recognize her debts without negotiation and without parley, she demands the same recognition of obligation on the part of other nations.

I said a moment ago that Russia had claims that need to be settled. What are those claims? They are claims against nations which, without declaring war, without any real reason for such action, invaded Russia with armed forces, blockaded her on every side, published quantities of propaganda against her, and expected the Russian people to observe silently these obligations. Nation after nation sacrificed its honor upon the altar of intrigue. What are the specific claims against these nations? The United States needlessly landed fifteen hundred troops on Russian soil. This was a direct breach of international law. The United States Commission supported Admiral Kolchack. How many of you people here tonight would be willing to support a revolution against your constituted government? This is not all. The United States Navy bombarded ports in the Black Sea, causing damage. As serious as the charges are against America, and as regretful as they have been, the charges against other nations of the world, including France, Japan, and, Great Britain, are even more serious. You all know the strenuous times through which Russia passed during the period from 1917 to 1920, a young Russia, Russia freed from four hundred years of darkness, Russia with revolutionaries in power, a Russia that needed help rather than blockade, invasion and intervention. The allied powers, upon a flimsy pretext, invaded this country. Japan sent seventy-three and a half thousand troops on Russian soil and kept them there until about a year ago, and France sent troops. In other words, on all sides Russia was blockaded,—on the south by Wrangel, on the north and west by other revolutionaries; and, not one of these agents had any aid whatsoever except that which they received from foreign governments whose intent was to destroy the Russian government.

Now I submit to you that upon these charges Russia is justified in having counter claims and demanding indemnity; and, she has a precedent. Her claims are directly parallel to the claims of America in the Alabama case, in which instance the United States got $15,500,000 in indemnity from Great Britain because a British war vessel preyed on commerce during our Civil War. The prevention of supplies going into Russia fell directly in the very same category as did the Alabama case.

Ladies and Gentlemen, I am here to speak for those citizens in America who believe that Russia has been infringed upon, who believe that the Russian government needs help, who will

not believe every newspaper report, but who will read the reports of men who have been in Russia and come out safe and sound. I appeal to you to carry the motion for the recognition of Russia, because I think if we refuse to recognize Russia, war psychology will pervade the Russian mind; and as long as war psychology pervades the Russian mind, there will remain the danger of war more terrible than any heard of in the annals of history, a war that will include all civilization, a war that will perhaps cause the forces of civilization to retrogress, even if they have not begun to do so already.

SECOND NEGATIVE

R. A. Butler, Cambridge

Mr. Chairman, Ladies and Gentlemen: We have been overwhelmed by the reception which we have received here in Maine, and words fail me when I try to express our thanks. There has been, however, one little element of doubt lurking in my mind as we motored through the vast and spacious forests of Maine, in the very generous motor drive which brought us here, and that is that it appeared to me that Maine was turning slightly red. We noticed that many of the trees in the forests were, as it were, red danger signals, and we noticed many other trees gradually assuming the red tints. I want to warn you, Ladies and Gentlemen, of Lewiston, Maine, not to go red this evening as those leaves. I want to warn you that when leaves go red, they fall down and perish; and so you too, of Lewiston, Maine, when you go red will fall down and perish.

In the course of my speech this evening, I merely want to point out to you, as concisely as possible, that recognition of the present government of Russia, that is, of the Soviet Union, is practically futile, and internationally extremely dangerous. But first let me deal with the point made by my distinguished friend from Cambridge and my friend from Bates College who spoke on the Affirmative side of this question. He went on to pat you Ladies and Gentlemen on the back, telling you that you were enlightened citizens of a great state, and urging you to act as citizens of America should act. I merely am going to ask you to be sensible and am not going to appeal to sentiment. My friend from Bates College told you that the bugbear of propa-

ganda was ridiculously exaggerated. Of course propaganda is ridiculously exaggerated. We naturally realize that the press of all countries have made a feature of exaggerating such an excellent opportunity for copy. He then informed you that he failed to see any red flag over the White House in Washington. I congratulate him on his very excellent eyesight. I want to warn you, Ladies and Gentlemen, that the Russian Bear will begin to encircle everything and everybody within reach with his shaggy arms, until finally he hugs them to death. I warn you, Ladies and Gentlemen, not to listen to these blandishments that have been put forth to you in such an insidious way.

Now let me prove to you that recognition of the Soviet government is morally pernicious. It has been proved in all negotiations with the Bolshevik states, as at present constituted, that they wish to set up a new code of national law which would be a direct negation of the rights of nationals; and I wish to appeal to you as nationals of a state to defend that most holy right to be treated as nationals.

My distinguished friend on the other side has had much to say to you about *de facto* and *de jure* recognition. The recognition of a *de jure* government is of no use to man or beast, but recognition of a *de facto* government is practical. I want to ask you what is the point of mere *de jure* recognition unless you wish to achieve from it some practical end. There is no point in saying, "I wish to recognize the present government of Russia." You must have some definite, practical, *de facto* recognition in the form of a treaty.

It now remains for me to show you the impossibility of conducting business with the present government of Russia which will show you that *de facto* recognition is well nigh impossible. I can speak perhaps better on this subject than my honorable friend who has preceded me. It seems to me, first of all, to be a direct slap in the face of the capitalistic regimé, which the Bolshevists freely acknowledge that they have no intention of treating with, and a complete slap in the face of all British bondholders as to the rights of nationals to hold the property which they have in Russia. I can see friends of mine who have had oil concessions which have been sold by this so-called moral government out from under them. One I have particularly in mind was sold to Germans in complete disregard of the rights of British nationals.

Another point I wish to make is that the present attempts in Europe that are being made looking to international peace, in the form of the League of Nations, they are not willing to come into line at all. The Russians say in conference that they will conduct in the future no propaganda against Britain; but immediately the Russian delegates return to Moscow, more offensive propaganda appears in their papers about the way this treaty has been carried out. Negotiations in an honest and intelligent way between Russia and other nations have always proven abortive.

So it is for these reasons that I consider it absolutely impossible to transact business with such a nation. The treaty with Italy was distinctly worse. Italy sacrificed very much more than Britain did in her treaty, and so with the small buffer states, such as Poland.

The other side will probably try to show you that Bolshevism is practically on the decline, but to me this seems absolute imagination. There was a funeral a short time ago in the place I come from, and in one of the cars following the hearse was seen tucked away in the corner a little man in a black overcoat and top hat. He sat perfectly quiet during the whole course of the funeral and never moved from his position. When they got home he was still sitting in the corner of the bus. Finally some one leaned over to him and said, "Why did you remain in the bus through the whole course of this mournful proceeding?" The old man said, "As a matter of fact my doctor recommended me to take automobile rides, and this is the only way that I can afford it."

It only remains for me now, having shown you that the recognition of the Soviet Union is practically futile, to show you that it is internationally dangerous. I saw recently a very able article written by a man who availed himself of the invitation of the Soviet Union to visit them in Moscow. He points out that the very basis of Communism is that the doctrines of Carl Marx should be introduced everywhere into the civilized world. Marx pointed out that socialism, as he saw it, could never flourish unless it took root in the English-speaking countries of the world.

Looking toward the east, Ladies and Gentlemen, at a convention held recently in India, over two hundred delegates there assembled swore, at the instigation of the Bolshevists, eternal

hatred against the name of England and the white man in general.

Now I ask you, is this the way to further European civilization? It seems to me as if it were rather, in the words of a famous modern German philosopher, that we see, as it were, the end of civilization coming as surely as the fall of the Roman Empire.

Ladies and Gentlemen, I have attempted to show you in the short time at my disposal that recognition of the Soviet government would be morally pernicious, practically futile, internationally dangerous. Vote for this motion and you will be denying the rights of a national, of a state, to be treated as such; you will be upholding that so called sacred right to interfere in the business of another nation; that is to say, recognize Russia, and thus interfere, as my friend says, to help her people. By doing so you will be sacrificing the prestige of a great nation, which is after all something. I consider that by so doing you will be crying aloud to the skies that the rules which govern international conventions should be violated; you will be encouraging pernicious economic doctrines; it will be an acknowledgement on your part that Christianity should be scorned; you will be deluding yourself if you think that any moral or practical benefit can come to you from such action; and you will be acknowledging that the very foundations of morality between states or individuals should be swept away in an ever-growing flood of misapprehension, of false sentiment and pride of purpose.

THIRD AFFIRMATIVE

A. P. Marshall, Gonville and Caius College, Cambridge

Mr. Chairman, Ladies and Gentlemen: There are times when words fail to express just what one would like to say in the way of thanks for so much courtesy and kindness, and I hope that the sincerity with which I say it will make up on my part for lack of eloquence.

And now, Sir, as I was listening to the speech of my honorable friend from Cambridge, I thought it was sound; in fact, Sir, it was all sound. He went with astonishing rapidity, which I ought to have warned you of before he started, from Leeds to Bath, from Bath to Kensington, then to black overcoats and

top hats; and I presume, Sir, that when he was referring to the latter he was referring to corn on the cob and hot dog.

Now, Sir, if I may, it is my desire to move the level of this debate a little on a higher plane. We come as messengers to tell you not only what we think, but what we feel; and we feel that to the youth of all the countries is given the tremendous task of preserving the future peace of the world. What we think today we do tomorrow. What we say in youth we reap in maturity.

Now in 1918 the world resounded to Wilson's fourteen points, on the basis of which Germany laid down her arms. What happened? The war was ended by a peace which bids fair to be the end of peace. A great nation was put in leading strings, was sentenced to go on paying heavy damages for an unnumbered period of years, had its commerce, finances, everything, put under control. I am not saying that it did not deserve it; but what I am asking in all sincerity, did it bring peace? It certainly did not. America, disgusted, and rightly so, with wars and rumors of wars, with charges and counter charges, with intrigues and counter intrigues, turned her face toward the west, and Europe was left feverishly arming for war. To the cry "Is it peace," Europe gave back the answer, "No, it is war—ruinous, disastrous, economic war." And you objected to a nation being treated thus. Why? Because you knew it could not bring peace.

Now what I am suggesting to you is this: that if you were disgusted with the treatment that was meted out to Germany, are you sure that Russia is being treated in the proper way at the present time? She is being treated as an Internationale; she has been outlawed from the comity of nations; and it is our contention that Russia outside is a menace to peace. If you want peace, you must begin by an act of oblivion and indemnity. That is my first appeal. Begin by a simple act of indemnity and recognition.

The honorable gentleman who opened the debate for that side of the house talked about the first pre-requisite for recognition. I remembered at that time that America had recognized Mexico. Surely Mexico has violated these pre-requisites of recognition. There is no security of property at the present time in Mexico.

Now a lot of the opposition to Russia comes from an utter loathing of what has been going on in that country. That loath-

ing has prompted you to leave Russia an outcast. Now, Sir, my main task tonight is to show you that that same loathing should prompt you not to leave Russia an outcast, but to start her upon the path which may be open to her. For good or for ill, I was forced to spend two of the most impressionable years of my life fighting with the British forces, violating international law. I was with the British forces which, in conjunction with Lenin and Wrangel, opposed the Bolshevists in south Russia. I want to make my position clear. I was a young naval officer. I had no reputation to make or to maintain. I did not set my sail to every passing wind, but was actuated solely by a youthful spirit of inquiry. That was my position, and before I came out I learned to love white as well as red, and I got the firm conviction that had it not been for allied intervention, Bolshevism would have died a natural death. Our invasion of Russia gave to the Bolsheviks just that excuse for which they were looking to gather up the reins of that despotic power which forms the basis of their rule today.

And now, Sir, how did the Russian revolution come about? The first revolution, in March, 1917, was undoubtedly the bursting forth of the pent-up feeling of resentment of one hundred and sixty millions of people against the embodiment of every despotic power under which Russia had groaned for centuries. Now that took place during the war; so Germany had something to say, and it was the part that Germany played that led to the counter revolution headed by world-wide known revolutionaries, misnamed Bolsheviks. These revolutionaries were smuggled into Russia and started on the intensive propaganda. It fell upon very fertile soil. The Russian people were experiencing something that they had never tasted before,—freedom,—and it overcame them. It intoxicated them, and the communistic side was presented to them as one in which every one worked for the community and for others, and not for themselves.

Now the Russians, Sir, as you have already found out, are visionary, and here was a vision, vague and indefinite, but still a vision. So Communism undermined the army and built up another in its place.

I want to bring to your attention just four of the salient features of that regimé in order to prove two propositions. First, that Bolshevism cannot last, and, secondly, that we can do something to hasten its fall.

Now in 1921 there were five hundred thousand comrades alone in Russia. There were at that time one hundred and sixty millions of people. One in every three hundred and twenty, therefore, was a Communist. Now for such a small number to rule such a large mass, ruthless methods were necessary, all liberty that there had been for the people was taken away, and the despotism equalled in ferocity and suppression that of the Czar. Now I concede that all this has happened in Russia. I know it because I have seen it; but it merely strengthens our case, for surely one great lesson of history is that a kingdom based upon force cannot last, and that is my first point.

Now the Russian is not a Communist. He is red outside and white underneath; and by a strange working of fate the Communist regimé has made him less Communistic than he was under the Czar. Now that he owns his own land, he does not see the advantage of sharing it with other people. Now, Sir, the fear has been expressed tonight that a red army is waiting to overthrow western civilization. I will tell you what has already happened. When, at the instigation of the French, the Poles invaded Russia, the Red army bore loyally and wholly the brunt of the attack. The word then was given the Red army to advance into Poland. It refused to move. Why? Because in Russia it is only this small handful of a half million who desire world-wide revolution, and even they are divided on the question. The Russian people seek only to live in peace.

Now the third most conspicuous feature is the vast spiritual gulf—and I use the word "spiritual" in its widest sense—between the party and the people. The Bolshevik is all formula, empty formula and no soul. The Russian is all soul and no formula. To the Bolshevik it is only the letter that applies, and to the Russian it is only the spirit that matters. He feels that the Kingdom of Heaven is not to be found in politics or in creeds of any kind, but within each one of us as individuals; and that is the position of the Russian people.

Now, Sir, for the fourth proposition, which to my mind shows that we can do something to hasten the fall of this regimé. The Bolshevik's greatest enemy is a full stomach and the leaders know it full well; so they have brought the Russian people to be entirely dependent upon them for everything, even for their food. They nationalize everything, and, of course, you know that trade stagnates. But even in its stagnated state, trade became too much; hence Lenin's policy

of 1921 restricting it. If we can set trade once again upon its feet, I suggest to you that a flourishing trade will soon take the government well out of its debt, and incidentally will hasten that government's downfall. You can only get at these people and trade with them through their stomachs. It is for this people that I plead, the many, as you know, who silently and self-sacrificingly have remained behind, the untutored masses, to bear the brunt of adversity and affliction. These are the only people in Russia today who show true Communism, that Communism born of ignorance and adversity. We have tried force and it has failed. Can we do nothing more? Soviet Russia resembles the closed room in which some foul disease is being developed, and the rest of the house in the interest of self-preservation have closed, bolted and barred that room lest infection leak out; but infection has leaked out, and if it has become virulent, it is because the longer that room is barred, the fouler has become the atmosphere within. That is not the way to cleanse that room. We must unbolt the doors and let in the light and air in which we live and breathe.

So it is, Sir, that Soviet Russia—Bolshevism—has been flourishing within a closed country. The rest of the world has shut her in, and had it not done so Bolshevism would have died long ago. What we want is to open once again the floodgates of trade. How can Bolshevism last when politically it is a despotism, economically it is a failure, and as a democracy it is a stupendous delusion?

Sir, I go from this house tonight with the priceless consolation that at the flood tide of my youthful vigor, and while yet there was time, both hand and voice of mine were lifted on behalf of this unhappy people who have already suffered too long, and whom I have learned to respect and even to love.

THIRD NEGATIVE

E. D. Canham, Bates

Ladies and Gentlemen: Twice it has been my privilege to stand upon this platform and welcome the representatives of Oxford University to debate here in Lewiston. Tonight I feel that it is indeed a redoubled pleasure to stand here and welcome the first representatives of Cambridge University who have ever braved the perils of American prohibition.

Now I have a bone to pick with the Chairman tonight. This noon, at luncheon, Mr. Marshall of the Cambridge team told me a splendid joke of the difference between Oxford and Cambridge which I had intended to tell you this evening, but the Chairman got ahead of me. However, I was told another joke by the same gentleman illustrating equally well the difference between Oxford and Cambridge. Mr. Marshall told me that Oxford was a college for gentlemen's sons, but Cambridge was a college for gentlemen. And I am sure we all agree most sincerely with the gentleman. Cambridge is indeed a college which breeds real gentlemen, and we all feel it a distinct pleasure tonight to have them here with us.

The concluding speaker has told us of his feeling for the Russian people. I would like to reemphasize the statement of the gentleman. I have never been in Russia, but I think I may speak not only for myself, but for the rest of the members of the Negative team, when I assure you that we sympathize deeply and sincerely with the plight in which Russia today finds herself. We believe most firmly, as the gentleman himself says, that this government, founded, as he has so admirably stated it, upon despotism,—we believe that any recognition of this government would be doing a gross injustice to the Russian people.

The gentleman who preceded me laid down most admirably the issue of the discussion, quoting his last words, "Bolshevism cannot last." What can we do to hasten its fall? I wonder if you, Ladies and Gentlemen, can conceive, as the gentleman apparently does, that the recognition of the Soviet government, which will mean nothing more than the section of that government, the placing of our seal of approval on the members of that government, will be the best way to hasten its downfall? If you believe what the speakers on the Affirmative advocate, that is, recognizing the Soviet government, if you believe, as the gentlemen do, that welcoming them back with open arms into the family of nations is the best way to hasten the fall of that unfortunate government, then, indeed, you will agree with the quotation. But if you agree with the Negative team that the best way to hasten its fall is to pursue a hostile attitude against it,—agreeing, as the gentleman has so admirably pointed out, that it was a despotism based upon the lowest form of force and violence,—if you hold that view, you will

believe, as we do, that we should establish in the case of Russia the same requirements for political recognition as we have established in the case of all other governments.

The gentleman has told us many times, and in many different ways, that the Soviet leaders and the Soviet government were based upon crass stupidity; that they were despots. He pointed out that we must extend open arms to the Russian people, but, according to his platform, he desires to extend open arms and political recognition to those very political despots whom he so abhors. There is only one conclusion in regard to this issue, Ladies and Gentlemen, and that is, that we should do our best to hasten the fall of the Soviet government; that we shall continue to withhold from it the unquestioned sanction of political recognition.

The gentleman has made the best speech for the Negative of this proposition that I have ever heard when he told us that we should do our very best to hasten the fall of the Soviet government, and I would like to continue his argument along that line.

The first speaker for the Negative case pointed out to you that Russia violated the first of these pre-requisites which is absolutely essential to be recognized before granting political recognition to the Soviet government. I would like to point out two others equally important. I refer to Russia's attitude toward the property of citizens of other countries. It is a widely accepted principle of international law that before recognition can be accorded to any country, that country must recognize the property rights of citizens of other countries. As many of you will probably recall, shortly after the Soviet government came into power in 1917, a decree was issued abolishing the property rights of all other countries, as well as of the citizens themselves, throughout Russia. This entailed a loss to American citizens of upwards of $600,000,000, and an equal loss to citizens of other countries. This was clearly a flagrant violation of all the principles of international law. Russia had clearly violated that element which was absolutely necessary to the establishment of political recognition. She did not recognize the property rights of nationals of other countries within her borders, and that same policy has extended up to the present day. During the summer of 1923, when the Soviet power had spread to eastern Siberia and to Vladi-

vostok, this policy of confiscation happened all over again, with another great loss to foreign nationals. Also in the present summer, during the summer and fall of 1924, we learn that the new economic policy is being put into effect, so that today all rights of private property have been finally weeded out in Russia. This is clearly the unmistakable attitude of the Soviet government, and it is most pertinent as bearing on the matter of granting political recognition. The Soviet government has refused to recognize the property rights of citizens of other countries within its borders, and, because of that refusal, it violates the first element absolutely necessary for recognition. I would like to point out that this is not a single isolated act of the Soviet government. It is simply typical of the entire point of view of those governing Russia today. It is typical of those Communist principles as voiced half a century ago. It is simply another of the policies of the Soviet government which must not be overlooked as the question of recognition is being discussed.

Another very striking policy on the part of the Soviet is in regard to the matter of international debts. During 1917, the United States government loaned to the revolutionary Russian government upwards of $228,000,000, called the Kerensky loan. Shortly after the Soviet came into power, it proceeded to cancel this as well as all forms of international indebtedness. We have all along consistently held that these were just and legal claims, and the Russian government must recognize them before recognition should be granted to it. It has been upon this basis that the United States Secretary of State has carried on his foreign policy. The gentleman has hinted, the second speaker for the Affirmative, that this might be a matter open to negotiation. He told you in so many words that the Soviet government had offered to pay these debts. He failed to tell you, however, the conditions upon which the Soviet government would pay its debts. They were unmistakable. In the first place, before the Soviet would pay, political recognition must in turn be agreeable to the Soviet, regardless of all other considerations. Moscow leaders also declared that before they recognized their debts, an international loan must be made to them, the conditions to be stipulated by themselves. Tchitcherin, who is still the Foreign Minister of the Moscow Soviet, continued to urge that before they would recognize their debts,

there must be payment of counter claims to the Soviet, which in 1922 amounted to $19,000,000,000, this payment to decrease the sum of the interallied war debt, and which at the present time has grown to figures which are beyond my power to state to you.

This is the basis on which the Soviet government carries on its foreign policy, and it is on such facts as these that the United States government, and many others in the world, have withheld recognition from the Soviet. Because the Soviet government refuses to recognize this phase of international law, America, and many other nations, have refused to grant them recognition. The issue is very plain. As the gentleman stated, Bolshevism cannot last. What can we do to hasten its fall? He told you the best way to hasten its fall was to give it sanction, to become again a prop beneath the stumbling Soviet government. However, we must not disregard the matter of international obligation. As the Negative team has been inclined to point out all through the course of the discussion, international law upon this point is unmistakably plain. It says simply this, that it must recognize its international obligations. That is the prime requisite.

Then, again, the Soviet government must cease its war by propaganda. Up until the present moment the Soviet has refused to adopt that attitude and has violated in a most flagrant way this cardinal principle.

Then the second point was that any government to merit recognition must in turn recognize the property rights of the citizens of other countries within its borders; and we have pointed out that the Soviet government violates this second pre-requisite, which must be observed not only by the Soviet, but by any government, before recognition can be granted.

The third pre-requisite which we have gone to some pains to point out was that before any government can be given recognition, it must in turn recognize the just and legal debts to other countries.

These, then, are the three issues upon which the entire discussion stands; and when we grant political recognition to a country, it simply means that we recognize that it is in a position to fulfil these most important international requirements.

Now the gentlemen for the Affirmative have made several appeals to you. They have told you that they wish this debate

to be placed, upon a higher plane. Those were the words of the speaker who immediately preceded me. It is the earnest wish of the Negative team to place the debate on a high plane. We wish to regard in this discussion those principles of national honor which have been current among nations. We wish it understood that recognition means something after all.

The gentleman who preceded me told about Mexico. The only fact that he failed to mention in his discussion of Mexico, however, was that Great Britain and the United States withheld recognition from the trial government of Mexico, on the very same ground which the Negative team is endeavoring to place before you this evening.

We plead for the observance of the principles of international law. The gentlemen have talked about the fact that the peace of the world depends on recognition of the principles of international law. We thank them for that statement and most heartily echo it; but we do not believe that the best way to practice the principles of international honor is to recognize this government which has evaded those principles time and time again.

I believe that the granting of recognition means something, and that the recognition of all the nations of the world handed to Russia at the present time would simply bolster up that Soviet government about which the speakers for the Affirmative have had so many eloquent things to say.

Here we have the Soviet government violating all principles of international law, violating all those principles which must be observed before political recognition can be granted. It is, therefore, the firm policy of the Negative team that the nations of the world must not grant to the Soviet government any sanction whatsoever by way of political recognition.

As has been stated so many times, it has been a great pleasure for the Bates team, on both sides, to discuss matters with the gentlemen from Cambridge. I have an uncle in England, and I might point out to you that he is about as loyal a Briton as ever lived; and when he learned that Cambridge was going to visit Bates, he thought it necessary to write me a letter of warning, and he said therein: "You may have been able to debate with the Oxford gentlemen, but look out for these Cambridge men. Remember, they won the boat race."

However we may differ concerning these arguments tonight,

it would be doing a most rank injustice to our European friends for the United States to set up a dual standard of international morality. We believe that until the Russian government is willing herself to come forward and recognize the principles of international morality, upon which international law must inevitably be based, political recognition must be withheld from that government.

THE CHAIRMAN

This closes the debate, and the audience will detach the ballots as per direction on the inside of the program, namely: that ballots are to be detached, not as we may think one side or the other deserve the verdict at our hands, because one side or the other has presented the facts in a more convincing fashion; but we are to vote in accordance with our individual views—in other words, according to the merits of the question. The ushers will pass among you and collect the ballots.

Ladies and Gentlemen, while we are waiting for the counting of the ballots, may I suggest that this audience express its Godspeed to these genial and brilliant Cambridge men, and testify to our regard for them and our esteem for our mother country by all of us standing and applauding them.

Thereupon the audience rose and applauded the gentlemen from Cambridge University.

MR. R. A. BUTLER

Cambridge University

Ladies and Gentlemen: We appreciate this fine welcome, and in a few words I want to thank you on behalf of myself and my friends most cordially for the great reception you have given us, and to tell you how sorry we are that a late train is going to take us away from you in a few moments. We hope that some day we shall be able to return and meet our good friends from Bates again. We thank you very much.

Thereupon the chairman announced the vote to have resulted as follows:

Negative	800.
Affirmative	150.

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